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NUCLEAR REGULATORY COMMISSION

10 CFR Part 52

[Docket No. 52–0010; NRC–2010–0135]

RIN 3150–AI85

Economic Simplified Boiling-Water Reactor Design Certification

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG–1966, Supplement 1, "Final Safety Evaluation Report Related to the Certification of the Economic Simplified Boiling-Water Reactor Standard Design, Supplement 1."

DATES: December 2, 2014.

ADDRESSES: Please refer to Docket ID NRC 2010–0135 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC 2010–0135. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select *"ADAMS Public Documents"* and then select *"Begin Web-based ADAMS Search."* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: David Misenhimer, Office of New Reactors, telephone: 301–415–6590, email: *David.Misenhimer@nrc.gov*, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: On August 24, 2005, in accordance with subpart B of 10 CFR part 52, GEH tendered its application for certification of the Economic Simplified Boiling-Water Reactor (ESBWR) standard plant design (ADAMS Accession No. ML052450245) with the NRC. The NRC staff issued a final safety evaluation report (FSER) for the ESBWR design in March 2011 (ADAMS Accession No. ML103470210). The NRC also published a proposed rule to certify the ESBWR design in the **Federal Register** on March 24, 2011 (76 FR 16549). The FSER and the proposed rule were based on the NRC's review of Revision 9 of the ESBWR design control document (DCD).

In late 2011, while the NRC staff was preparing the final rule, issues were identified with the ESBWR steam dryer, a nonsafety-related component. These issues called into question certain conclusions in the staff's safety review. Publication of the FSER as a NUREG was delayed while the steam dryer design methodology was under review. The NRC issued requests for additional information (RAIs). Resolution of these issues required additional analyses by the applicant and review by the NRC staff in order for the NRC staff to conclude the design is acceptable for certification. Responses to all RAIs were received in December 2013. The Final Safety Evaluation Report was issued by the NRC as NUREG–1966 (ADAMS Accession No. ML14100A304) in April 2014 to document the NRC staff's technical review of the ESBWR design. Subsequently, the NRC issued an advanced supplemental safety evaluation report (SER) to address several matters identified by the NRC and revisions to the ESBWR DCD in Revision 10. The advanced supplemental SER was issued on April 27, 2014 (ADAMS Accession No. ML14043A134) and was referenced in a supplemental proposed rule published on May 6 2014 (79 FR 25715; May 6, 2014). This supplement includes the NRC staff's safety review of the steam dryer issues (reactor pressure vessel internals), as well as: Protection of the offgas system within the turbine building; Bulletin 2012–01 and GDC 17; seismic analysis of fuel in spent fuel and buffer pools; ESBWR DCD Tier 1, ASME code definition; ESBWR DCD Tier 1, ASME code component design verification ITTAAC; and ESBWR DCD Tier 2, editorial corrections in Chapters 16 and 16B. On the basis of the evaluation described in the ESBWR FSER (NUREG–1966) and the supplemental FSER issued on September 24, 2014 (ADAMS Accession No. ML14328A238), the NRC staff concluded that the changes to the DCD (up to and including Revision 10 to the ESBWR DCD) were acceptable and that GEH's application for design certification met the requirements of Subpart B to 10 CFR part 52 that are applicable and technically relevant to the ESBWR standard plant design. The NRC then published a final rule to certify the ESBWR design in the **Federal Register** on October 15, 2014 (79 FR 61944). This document announces the supplemental final safety evaluation report was published as NUREG–1966, Supplement 1 in September, 2014 (ADAMS Accession No. ML14265A084).

Dated at Rockville, Maryland, 20th day of November 2014.

For the Nuclear Regulatory Commission.

Ronaldo Jenkins,

Chief, Licensing Branch 3, Division of New Reactor Licensing, Office of New Reactor.

[FR Doc. 2014–28238 Filed 12–1–14; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG47

Small Business Size Standards; Adoption of 2012 North American Industry Classification System for Size Standards; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Interim final rule; correction.

SUMMARY: The U.S. Small Business Administration (SBA) is correcting an interim final rule that appeared in the **Federal Register** on August 20, 2012 (75 FR 49991), effective October 1, 2012. The interim rule amended SBA's Small Business Size Regulations by incorporating the Office of Management and Budget's 2012 North American Industry Classification System update (NAICS 2012) into its table of small business size standards. The NAICS 2012 revised the definitions of some NAICS industries by deleting some and merging others with the new or other revised industries. This action corrects the small business size standard for NAICS 334419, Other Electronic Component Manufacturing, from 500 employees to 750 employees, effective immediately.

DATES: Effective December 2, 2014.

FOR FURTHER INFORMATION CONTACT: Khem Sharma, Chief, Office of Size Standards, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The NAICS 2012 revised the NAICS 2007 definition for NAICS 334419, Other Electronic Component Manufacturing, by merging with it NAICS 334411, Electron Tube Manufacturing, but retained the existing industry title. NAICS 334419 had a size standard of 500 employees, while NAICS 334411 had 750 employees. In accordance with SBA's policy of adopting the highest size standard among the industries merged, on page 50001 of the August 20, 2012 interim final rule (75 FR 49991), SBA indicated in Table 2 "NAICS 2012 Codes Matched to NAICS 2007 Codes and Size Standards" that it is adopting 750 employees as the small business size standard for the revised NAICS 334419. To amend the table in § 121.201, "Small Business Size Standards by NAICS Industry", on page 50008, the rule states "ttt. Remove the entries for 334411, 334414, and 334415". However, the rule did not revise the size standard for NAICS 344119 to 750 employees. Therefore, the revised table, "Small Business Size Standards by NAICS Industry" shows the old, incorrect size standard of 500 employees for NAICS 334419.

Need For Correction

The purpose of this action is to correct the table "Small Business Size Standards by NAICS Industry" (13 CFR 121.201) by revising the size standard for NAICS 334419, Other Electronic Component Manufacturing, from 500 employees to 750 employees.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA amends 13 CFR part 121 by making the following correcting amendment:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 662, 694a(9).

■ 2. In § 121.201, revise the entry "334419" in the table, "Small Business Size Standards by NAICS Industry" to read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
*	* * * * *	*	*
334419	Other Electronic Component Manufacturing		750
*	* * * * *	*	*

Dated: November 18, 2014.

Kenneth Dodds,

Director for Office of Policy, Planning and Liaison.

[FR Doc. 2014–28329 Filed 12–1–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0195; Directorate Identifier 2013–NM–195–AD; Amendment 39–18026; AD 2014–23–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2008–17–03 for certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2008–17–03 required repetitive inspections to detect fuselage frame cracking, and corrective action if necessary. AD 2008–17–03 also provided for optional terminating action (repair/preventive change) for the repetitive inspections. This new AD adds airplanes to the applicability, but does not provide terminating action for the newly added airplanes. This AD was prompted by reports of cracks found at the cutout in the web of body station

frame 303.9 inboard of stringer 16L, as well as a new report of cracking found on an airplane not identified in the applicability of AD 2008–17–03. We are issuing this AD to detect and correct fuselage frame cracking, which could prevent the left forward entry door from sealing correctly, and could cause in-flight decompression of the airplane.

DATES: This AD is effective January 6, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 6, 2015.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of September 23, 2008 (73 FR 48288, August 19, 2008).

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0195; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nenita Odessa, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: *nenita.odessa@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2008–17–03, Amendment 39–15641 (73 FR 48288, August 19, 2008). AD 2008–17–03 applied to certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on April 14, 2014 (79 FR 20824). The NPRM was prompted by reports of cracks found at the cutout in the web of body station frame 303.9 inboard of stringer 16L, and the subsequent determination that additional airplanes are subject to the requirements of AD 2008–17–03. The NPRM proposed to continue to require repetitive inspections for fuselage frame cracking and applicable corrective action, add airplanes to the applicability, and to provide optional terminating action (repair/preventive change) for the repetitive inspections for the airplanes subject to AD 2008–17–03. We are issuing this AD to detect and correct fuselage frame cracking, which could prevent the left forward entry door from sealing correctly, and could cause in-flight decompression of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 20824, April 14, 2014) and the FAA's response to each comment.

Effect of Winglets on This AD

Aviation Partners Boeing stated that accomplishing the supplemental type certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect the actions specified in the NPRM (79 FR 20824, April 14, 2014).

We concur with the commenter. We have redesignated paragraphs (c), (c)(1), and (c)(2) of the NPRM (79 FR 20824, April 14, 2014) as paragraphs (c)(1), (c)(1)(i), and (c)(1)(ii) of this AD, and added new paragraph (c)(2) to this AD to state that installation of STC ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a "change in product" alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Request To Clarify Certain Requirements

All Nippon Airways (ANA) requested that we revise paragraph (i) of the proposed AD (79 FR 20824, April 14, 2014), which added new inspections for Group 2 airplanes in accordance with Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013. ANA claimed that this requirement included unnecessary procedures for opening and closing access from the aft side of the inspection area because the inspection is required from the forward side. ANA suggested that we include the information in Note 8 of paragraph 3.A., General Instructions, of Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013, to exclude the unnecessary procedures. Note 8 states, in part, as follows:

> If it is necessary to remove more parts for access, you can remove those parts. If you can get access without removing identified parts, it is not necessary to remove all of the identified parts. . . .

We agree with the request. We have revised paragraph (i) in this AD to point to this exception in new paragraph (j)(4) in this AD. We have similarly changed paragraphs (g) and (h) in this AD to also specify this exception.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (73 FR 20824, April 14, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (73 FR 20824, April 14, 2014).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 148 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS: REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	31 to 33 work-hours × $85 per hour = up to $2,805 per inspection cycle.	$0	Up to $2,805 per inspection cycle.	Up to $415,140 per inspection cycle

ESTIMATED COSTS: OPTIONAL MODIFICATION

Action	Labor cost	Parts cost	Cost per product
Repair/preventive change	12 to 30 work-hours × $85 per hour = up to $2,550.	$564 to $2,236	Up to $4,786

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2008–17–03, Amendment 39–15641 (73 FR 48288, August 19, 2008), and adding the following new AD:

2014–23–10 The Boeing Company: Amendment 39–18026; Docket No. FAA–2014–0195; Directorate Identifier 2013–NM–195–AD.

(a) Effective Date

This AD is effective January 6, 2015.

(b) Affected ADs

This AD replaces AD 2008–17–03, Amendment 39–15641 (73 FR 48288, August 19, 2008).

(c) Applicability

(1) This AD applies to The Boeing Company airplanes, certificated in any category, identified in paragraphs (c)(1)(i) and (c)(1)(ii) of this AD.

(i) Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, as identified in Boeing Alert Service Bulletin 737–53A1197, dated August 25, 2006.

(ii) Model 737–300, –400, and –500 series airplanes, as identified in Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. For airplanes on which STC ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) is installed, therefore, a "change in product" alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of cracks found at the cutout in the web of body station frame 303.9 inboard of stringer 16L, and a new report of cracking found on an airplane not included in the applicability of AD 2008–17–03, Amendment 39–15641 (73 FR 48288, August 19, 2008). We are issuing this AD to detect and correct such cracking, which could prevent the left forward entry door from sealing correctly, and could cause in-flight decompression of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Repetitive Inspections: Group 1 Airplanes, Boeing Alert Service Bulletin 737–53A1188, Revision 2, Dated May 9, 2007; or Boeing Alert Service Bulletin 737–53A1188, Revision 3, Dated September 6, 2013

This paragraph restates the requirements of paragraph (f) of AD 2008–17–03, Amendment 39–15641 (73 FR 48288, August 19, 2008), with revised service information and airplane groupings. For airplanes identified as Group 1 in Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013: Do detailed and high frequency eddy current (HFEC) inspections in the web and doubler around the slotted holes in the frame web at stringers 15L and 16L, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1188, Revision 2, dated May 9, 2007; or Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013, except as provided by paragraph (j)(4) of this AD. Do

the inspections at the applicable time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013. Do all applicable corrective actions before further flight in accordance with Boeing Alert Service Bulletin 737–53A1188, Revision 2, dated May 9, 2007; or Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013; except as provided by paragraph (j)(3) of this AD. Repeat the inspections at intervals not to exceed 4,500 flight cycles, until accomplishment of the repair/preventive change in accordance with Boeing Alert Service Bulletin 737–53A1188, Revision 2, dated May 9, 2007; or Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013; which terminates the repetitive inspection requirements for the airplanes identified in this paragraph. A repair/preventive change done using Boeing Alert Service Bulletin 737–53A1188, dated April 9, 1998; or Boeing Alert Service Bulletin 737–53A1188, Revision 1, dated March 18, 1999; does not terminate the repetitive inspections, but the repetitive inspections may be terminated after the existing kit is replaced with a new kit in accordance with paragraph 3.B., Part II, step 3, or Part III, step 3, of Boeing Alert Service Bulletin 737–53A1188, Revision 2, dated May 9, 2007. As of the effective date of this AD, only Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013, may be used to do the actions required by this paragraph.

Note 1 to paragraph (g) of this AD: Airplanes identified as Group 1 in Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013, are the same as those identified in Boeing Alert Service Bulletin 737–53A1188, Revision 2, dated May 9, 2007.

(h) Retained Repetitive Inspections: Boeing Alert Service Bulletin 737–53A1197, Dated August 25, 2006

This paragraph restates the requirements of paragraph (g) of AD 2008–17–03, Amendment 39–15641 (73 FR 48288, August 19, 2008). For airplanes identified in Boeing Alert Service Bulletin 737–53A1197, dated August 25, 2006: Do an ultrasound inspection of the slot-shaped cutout in the web for the door stop strap at stringer 16L, an HFEC inspection of the web along the upper and lower edges of the doubler around the doorstop strap at stringer 16L, and a detailed inspection of the web around the doubler for the cutout at stringer 16L, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1197, dated August 25, 2006, except as provided by paragraph (j)(4) of this AD. Do the inspections at the applicable time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1197, dated August 25, 2006, except as provided by paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight in accordance with Boeing Alert Service Bulletin 737–53A1197, dated August 25, 2006, except as provided by paragraph (j)(3) of this AD. Repeat the inspections at intervals not to exceed 4,500 flight cycles, until accomplishment of the repair/preventive change in accordance with Boeing Alert Service Bulletin 737–53A1197, dated August 25, 2006, which terminates the repetitive inspections.

(i) New Repetitive Inspections: Group 2 Airplanes, Boeing Alert Service Bulletin 737–53A1188, Revision 3, Dated September 6, 2013

For airplanes identified as Group 2 in Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013: At the applicable times specified in Table 3 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013, except as required by paragraph (j)(1) of this AD: Do detailed and HFEC inspections for cracking in the web of the body station 303.9 frame at stringer 15L, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013, except as required by paragraphs (j)(3) and (j)(4) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at the applicable time specified in Table 3 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013. Accomplishment of a repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD terminates the repetitive inspections required by this paragraph for the area covered by the repair.

(j) Exceptions to Service Information Specifications

(1) Where Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013, specifies a compliance time "after the Revision 3 date of this service bulletin," this AD requires compliance within the specified time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 737–53A1197, dated August 25, 2006, specifies a compliance time "After the Date of this Service Bulletin," this AD requires compliance for paragraph (h) of this AD within the specified time after September 23, 2008 (the effective date of AD 2008–17–03, Amendment 39–15641 (73 FR 48288, August 19, 2008)). For the initial inspection, the grace period for airplanes that have exceeded the specified threshold is extended to 4,500 flight cycles after September 23, 2008 (the effective date of AD 2008–17–03).

(3) Where Boeing Alert Service Bulletin 737–53A1188, Revision 2, dated May 9, 2007; Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013; and Boeing Alert Service Bulletin 737–53A1197, dated August 25, 2006; specify to contact Boeing for appropriate action, including repair of damage outside the scope of the service information, repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(4) This AD does not require the specific access and restoration instructions identified in the Work Instructions of Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013; and Boeing Alert Service Bulletin 737–53A1197, dated August 25, 2006. Operators may perform those actions in accordance with approved maintenance procedures.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (l)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously for AD 2008–17–03, Amendment 39–15641 (73 FR 48288, August 19, 2008), are approved as AMOCs for the corresponding provisions of this AD.

(l) Related Information

For more information about this AD, contact Nenita Odessa, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: *nenita.odessa@faa.gov.*

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on January 6, 2015.

(i) Boeing Alert Service Bulletin 737–53A1188, Revision 3, dated September 6, 2013.

(ii) Reserved.

(4) The following service information was approved for IBR on September 23, 2008 (73 FR 48288, August 19, 2008).

(i) Boeing Alert Service Bulletin 737–53A1188, Revision 2, dated May 9, 2007.

(ii) Boeing Alert Service Bulletin 737–53A1197, dated August 25, 2006.

(5) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65,

Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(6) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on November 5, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–27362 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0776; Directorate Identifier 2009–NE–32–AD; Amendment 39–18007; AD 2010–17–11R2]

RIN 2120–AA64

Airworthiness Directives; Dowty Propellers Constant Speed Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are revising airworthiness directive (AD) 2010–17–11R1, which applies to all Dowty Propellers R408/6–123–F/17 model propellers. AD 2010–17–11R1 required initial application of sealant between the bus bar assembly and the backplate assembly of certain line-replaceable units (LRUs) and repetitive re-applications of sealant on all R408/6–123–F/17 model propellers. AD 2010–17–11R1 also provided an optional terminating action to the repetitive re-application of sealant. This AD increases the interval allowed between the required re-application of sealant, and specifies an additional acceptable sealant. This AD was prompted by failure of the propeller de-ice bus bar due to friction or contact between the bus bar and the backplate assembly, consequent intermittent short circuit, and possible double generator failure. We are issuing this AD to prevent an in-flight double generator failure, which could result in reduced control of the airplane.

DATES: This AD is effective January 6, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 6, 2015.

ADDRESSES: For service information identified in this AD, contact Dowty Propellers, Anson Business Park, Cheltenham Road East, Gloucester GL2 9QN, UK; phone: 44 0 1452 716000; fax: 44 0 1452 716001. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2009–0776; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information, regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Michael Schwetz, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7761; fax 781–238–7170; email: *michael.schwetz@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to revise AD 2010–17–11R1, Amendment 39–17481 (78 FR 41283, July 10, 2013), ("AD 2010–17–11R1"). AD 2010–17–11R1 applied to the specified products. The NPRM published in the **Federal Register** on March 19, 2014 (79 FR 15269). The NPRM proposed to require increasing the interval allowed between the required re-application of sealant and specified an additional acceptable sealant.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Request Correction to the Applicability and Compliance Paragraphs

Horizon Air requested a correction in the Applicability and Compliance paragraphs for possible typographical errors between AD 2010–17–11R1 and the NPRM (79 FR 15269, March 19, 2014). Horizon Air stated that the Applicability has changed from ". . . serial number (S/N) below DAP0327" in AD 2010–17–11R1 to ". . . S/N below DAP0927" in the proposed rule. With no discussion about the increased number of affected propellers, Horizon Air believes that typographical errors exist in the Applicability and Compliance sections.

We do not agree. AD 2010–17–11R1 required initial sealant application to all Dowty Propellers R408/6–123–F/17 model propellers with a hub, actuator, and backplate assembly LRU S/Ns below DAP0347, not DAP0327 as quoted above. AD 2010–17–11R1 also required repetitive re-application of sealant for all LRU S/Ns below DAP0927. We did not change this AD.

Request Change to Optional Terminating Action

Horizon Air requested that all revisions to Dowty Propellers Service Bulletin (SB) No. D8400–61–94 be included in the Optional Terminating Action paragraph. The implied reason for this request was to support terminating action throughout the range of qualified SBs.

We partially agree. We agree that Dowty Propellers SB No. D8400–61–94, Revision 6, dated December 12, 2013 and earlier revisions provide adequate corrective actions to address the unsafe condition. We changed the Optional Terminating Action paragraph to include Dowty Propellers SB No. D8400–61–94, Revision 6, dated December 12, 2013 and earlier revisions.

We do not agree that unknown future SB versions should be included in this AD. The content of future SB revisions is speculation. We did not change this AD to include all revisions of the SB.

Request for Alternative Method of Compliance

Horizon Air requested that we allow the use of 3M 4200 sealant as an equivalent replacement for the 3M 5300 sealant.

We agree. We approved 3M 4200 as an acceptable sealant in response to the Horizon Air comment to AD 2010–17–11R1 when that AD was at the NPRM stage; see 78 FR 41283, July 10, 2013. 3M 4200 sealant is also one of three sealants identified in Dowty Propellers Alert Service Bulletin (ASB) No. D8400–

61–A66, Revision 8, dated October 31, 2013. That Dowty ASB is incorporated by reference to this AD and is authorized for use when performing paragraph (g) of this AD. We did not change this AD.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 104 propellers installed on airplanes of U.S. registry. We also estimate that it will take about 2 hours per propeller to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $20 per propeller. Based on these figures, we estimate the cost of this AD on U.S. operators to be $19,760.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2010–17–11R1, Amendment 39–17481 (78 FR 41283, July 10, 2013), and adding the following new AD:

2010–17–11R2 Dowty Propellers Constant Speed Propellers: Amendment 39–18007; Docket No. FAA–2009–0776; Directorate Identifier 2009–NE–32–AD.

(a) Effective Date

This AD is effective January 6, 2015.

(b) Affected ADs

This AD revises AD 2010–17–11R1, Amendment 39–17481 (78 FR 41283, July 10, 2013).

(c) Applicability

This AD applies to Dowty Propellers R408/6–123–F/17 model propellers with a hub, actuator, and backplate assembly line-replaceable unit (LRU) serial number (S/N) below DAP0927.

(d) Unsafe Condition

This AD was prompted by failure of the propeller de-ice bus bar due to friction or contact between the bus bar and the backplate assembly, consequent intermittent short circuit, and possible double generator failure. We are issuing this AD to prevent an in-flight double generator failure, which could result in reduced control of the airplane.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) For R408/6–123–F/17 model propellers with a hub, actuator, and backplate assembly LRU S/N below DAP0347, do the following initial sealant application within 5,000 flight-hours (FHs) after September 27, 2010, or within 100 FHs after the effective date of this AD, whichever occurs later:

(i) Apply a sealant specified in Dowty Propellers Alert Service Bulletin (ASB) No. D8400–61–A66, Revision 8, dated October 31, 2013 between the bus bar assemblies and the backplate assembly.

(ii) Use paragraph 3.A. or 3.B. of the Accomplishment Instructions of Dowty Propellers ASB No. D8400–61–A66, Revision 8, dated October 31, 2013, to apply the sealant.

(2) Thereafter, for R408/6–123–F/17 model propellers, with a hub, actuator, and backplate assembly LRU S/N below DAP0927, re-apply sealant as specified in paragraphs (e)(1)(i) and (e)(1)(ii) of this AD within every additional 10,500 FHs.

(f) Installation Prohibition

After the effective date of this AD, do not install any Dowty Propellers R408/6–123–F/17 model propeller unless 3M 5300 or 3M 4200 sealant was applied between the bus bar assembly and the backplate assembly as required by this AD, or unless the optional terminating action as specified in paragraph (g) of this AD was performed.

(g) Optional Terminating Action

As optional terminating action to the sealant application required by paragraph (e) of this AD, replace the bus bar assembly with a slip ring de-icer harness. Use paragraph 3.A. of the Accomplishment Instructions of Dowty Propellers Service Bulletin (SB) No. D8400–61–94, Revision 6, dated December 12, 2013, to do the replacement.

(h) Credit for Previous Actions

(1) Sealant applications performed before the effective date of this AD using Dowty Propellers SB No. D8400–61–66, dated February 9, 2007; Revision 1, dated May 4, 2007; ASB No. D8400–61–A66, Revision 2, dated August 19, 2009; Revision 3, dated November 10, 2009; Revision 4, dated January 19, 2010; Revision 5, dated June 16, 2010; Revision 6, dated August 17, 2011; or Revision 7, dated December 1, 2011, satisfy the initial sealant application required by paragraph (e) of this AD.

(2) Replacement of the busbar assembly with a slip ring de-icer harness before the effective date of this AD using Dowty Propellers SB No. D8400–61–94, Revision 2, dated August 29, 2012; Revision 3, dated October 23, 2012; Revision 4, dated June 12, 2013; or Revision 5, dated September 2, 2013, satisfies the optional terminating action specified in paragraph (g) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, Boston Aircraft Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(j) Related Information

(1) For more information about this AD, contact Michael Schwetz, Aerospace

Engineer, Boston Aircraft Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7761; fax 781–238–7170; email: *michael.schwetz@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2009–0114R2, (Correction: December 16, 2013), dated December 13, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2009-0776-0014.*

(3) Dowty Propellers SB No. D8400–61–66, dated February 9, 2007; Revision 1, dated May 4, 2007; ASB No. D8400–61–A66, Revision 2, dated August 19, 2009; Revision 3, dated November 10, 2009; Revision 4, dated January 19, 2010; Revision 5, dated June 16, 2010; Revision 6, dated August 17, 2011; or Revision 7, dated December 1, 2011, which are not incorporated by reference in this AD, can be obtained from Dowty Propellers, using the contact information in paragraph (k)(3) of this AD.

(4) Dowty Propellers SB No. D8400–61–94, Revision 2, dated August 29, 2012; Revision 3, dated October 23, 2012; Revision 4, dated June 12, 2013; or Revision 5, dated September 2, 2013, which are not incorporated by reference in this AD, can be obtained from Dowty Propellers, using the contact information in paragraph (k)(3) of this AD.

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Dowty Propellers Alert Service Bulletin No. D8400–61–A66, Revision 8, dated October 31, 2013.

(ii) Dowty Propellers Service Bulletin No. D8400–61–94, Revision 6, dated December 12, 2013.

(3) For Dowty Propellers service information identified in this AD, contact Dowty Propellers, Anson Business Park, Cheltenham Road East, Gloucester GL2 9QN, UK; phone: 44–0–1452–716000; fax: 44–0–1452–716001.

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on November 3, 2014.

Kim Smith,

Acting Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–28325 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0701; Directorate Identifier 2014–CE–025–AD; Amendment 39–18034; AD 2014–24–01]

RIN 2120–AA64

Airworthiness Directives; Various de Havilland Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Harry E. Williams de Havilland Model DH 82A airplanes, all Cliff Robertson de Havilland Model DH 82A airplanes, and all de Havilland Model DH 83 airplanes. This AD was prompted by reports of structural failure of the attachment of the wing to the fuselage that resulted from failed lateral fuselage tie rods. This AD requires inspecting the aircraft maintenance records to determine the date of installation or the date of last replacement of the lateral fuselage tie rods. This AD also requires repetitively replacing all lateral fuselage tie rods and attaching nuts at a specified life limit interval. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective January 6, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 6, 2015.

ADDRESSES: For service information identified in this AD, for de Havilland DH 82A airplanes, contact de Havilland Support Ltd., Building 213, Duxford Airfield, Cambridge, United Kingdom CB22 4QR, telephone: +44 (0) 1223 830090; fax: +44 (0) 1223 830085; email: *info@dhsupport.com;* Internet: *http://www.dhsupport.com/moth.php.*

For service information identified in this AD, for de Havilland DH 83 airplanes, contact Air Stratus Ltd., Oaksey Park Airfield, Oaksey, Malmesbury, Wiltshite, United Kingdom SN 16 9SD; telephone: +44 (0) 1666 575111; no known Internet address.

You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0701; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For airplanes covered under Type Certificate Data Sheet (TCDS) A5PC (Model de Havilland DH 82A airplanes built in Australia): Andrew McAnaul, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, ASW–150 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov.*

For airplanes covered under TCDS A8EU (Model de Havilland DH 82A airplanes built in the United Kingdom): Fred Guerin, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Suite 100, Lakewood, California 90712; phone (562) 627–5232; fax: (562) 627–5210; email: *fred.guerin@faa.gov.*

For airplanes covered under TCDS 2–439 (Model de Havilland DH 83 airplanes built in the United Kingdom): Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; phone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Harry E. Williams de Havilland Model DH 82A airplanes, all Cliff Robertson de Havilland Model DH 82A airplanes, and all de Havilland

Model DH 83 airplanes. The NPRM published in the **Federal Register** on September 15, 2014 (79 FR 54919). The NPRM was prompted by reports of structural failure of the attachment of the wing to the fuselage that resulted from failed lateral fuselage tie rods. The NPRM proposed to require inspecting the aircraft maintenance records to determine the date of installation or the date of last replacement of the lateral fuselage tie rods. The NPRM also proposed to require repetitively replacing all lateral fuselage tie rods and attaching nuts at a specified life limit interval. We are issuing this AD to correct the unsafe condition on these products.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 54919, September 15, 2014) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 54919, September 15, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 54919, September 15, 2014).

Costs of Compliance

We estimate that this AD will affect 69 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect the aircraft maintenance records to determine the date of installation or date of last replacement of the lateral fuselage tie rods and attaching nuts.	1 work-hour × $85 per hour = $85.	Not applicable	$85	$5,865

We estimate the following costs to the necessary replacements.

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product
Replace lateral fuselage tie rods and attaching nuts	30 work-hours × $85 per hour = $2,550	$825	$3,375

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2014–24–01 Harry E. Williams, Cliff Robertson, and de Havilland Airplanes: Amendment 39–18034; Docket No. FAA–2014–0701; Directorate Identifier 2014–CE–025–AD.

(a) Effective Date

This AD is effective January 6, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Harry E. Williams and Cliff Robertson de Havilland Model DH 82A airplanes, all serial numbers, and de Havilland Model DH 83 airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 5341, Fuselage, Wing Attach Fittings.

(e) Unsafe Condition

This AD was prompted by reports of structural failure of the attachment of the wing to the fuselage that resulted from failed lateral fuselage tie rods. We are issuing this AD to correct the unsafe condition on these products.

(f) Compliance

Comply with this AD within the compliance times specified in paragraphs (g) through (h) of this AD, unless already done.

(g) Determine Date of Installation or Date of Last Replacement of the Lateral Fuselage Tie Rods and Attaching Nuts

Within the next 30 days after January 6, 2015 (the effective date of this AD), review the aircraft records to determine the date of installation or date of last replacement of the lateral fuselage tie rods and attaching nuts.

(h) Replace the Lateral Fuselage Tie Rod and Attaching Nuts

Initially replace the lateral fuselage tie rod and attaching nuts at whichever of the compliance times specified in paragraph (h)(1) or paragraph (h)(2) of this AD that applies. Repetitively thereafter replace the lateral fuselage tie rod and attaching nuts every 2,000 hours TIS or 18 years, whichever occurs first. Do the replacement following the procedures in paragraph 2.C. of the Accomplishment Instructions and the table on Figure 1 in British Aerospace Military Aircraft and Aerostructures BAe Aircraft Bulletin for De Havilland Moth Aircraft, Document Type and Ref No Technical News Sheet CT (Moth) No 29, Issue 3, dated March 1, 1999.

(1) *If the date of lateral fuselage tie rod installation or date of last replacement is known:* Do the initial replacement at whichever of the following compliance times in paragraph (h)(1)(i) or paragraph (h)(1)(ii) of this AD that occurs later:

(i) Upon accumulating 2,000 hours TIS on the lateral fuselage tie rod or upon reaching 18 years from the last lateral fuselage tie rod replacement, whichever occurs first; or

(ii) Within the next 6 months after January 6, 2015 (the effective date of this AD) or within the next 100 hours TIS January 6, 2015 (after the effective date of this AD), whichever occurs first.

(2) *If the date of lateral fuselage tie rod installation or date of last replacement is not known:* Do the initial replacement within the next 6 months after January 6, 2015 (the effective date of this AD) or within the next 100 hours TIS after January 6, 2015 (the effective date of this AD), whichever occurs first.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager of the Fort Worth Airplane Certification Office (ACO), the Manager of the Los Angeles Aircraft Certification Office (ACO), and the Manager of the Standards Office, FAA, have the authority to approve AMOCs for their respective products covered by this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the applicable FAA office, send it to the attention of the person identified in paragraphs (j)(1), (j)(2), or (j)(3), as applicable.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(j) Related Information

(1) For more information about this AD for airplanes covered under Type Certificate Data Sheet (TCDS) A5PC (Model de Havilland DH 82A airplanes built in Australia), contact Andrew McAnaul, Aerospace Engineer, FAA, Fort Worth ACO, ASW–150 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov.*

(2) For more information about this AD for airplanes covered under TCDS A8EU (Model de Havilland DH 82A airplanes built in the United Kingdom), contact Fred Guerin, Aerospace Engineer, FAA, Los Angeles ACO, 3960 Paramount Blvd., Suite 100, Lakewood, California 90712; phone (562) 627–5232; fax: (562) 627–5210; email: *fred.guerin@faa.gov.*

(3) For more information about this AD for airplanes covered under TCDS 2–439 (Model de Havilland DH 83 airplanes built in the United Kingdom), contact Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) British Aerospace Military Aircraft and Aerostructures BAe Aircraft Bulletin for De Havilland Moth Aircraft, Document Type and Ref No Technical News Sheet CT (Moth) No 29, Issue 3, dated March 1, 1999.

(ii) Reserved.

(3) For British Aerospace Military Aircraft and Aerostructures service information identified in this AD, contact:

(i) For de Havilland DH 82A airplanes: de Havilland Support Ltd, Building 213, Duxford Airfield, Cambridge, United Kingdom CB22 4QR; telephone: +44 (0) 1223 830090; fax: +44 (0) 1223 830085; email: *info@dhsupport.com*; Internet: *http://www.dhsupport.com/moth.php.*

(ii) For de Havilland DH 83 airplanes: Air Stratus Ltd., Oaksey Park Airfield, Oaksey, Malmesbury, Wiltshite, United Kingdom SN 16 9SD; telephone: +44 (0) 1666 575111; no known Internet address.

(4) You may view this service information at FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on November 18, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–27789 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0776; Directorate Identifier 2013–NM–240–AD; Amendment 39–18033; AD 2014–23–17]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are superseding Airworthiness Directive (AD) 2013–20–06 for all Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes. AD 2013–20–06 required revising the maintenance program to incorporate certain maintenance requirements and airworthiness limitations. This new AD requires revising the maintenance or inspection program to incorporate certain other maintenance requirements and airworthiness limitations. This AD was prompted by a determination that existing maintenance requirements are not adequate to address the aging effects of aircraft systems. We are issuing this AD to address the aging effects of aircraft systems. Such aging effects could change the characteristics of systems' life-limited components leading to an increased potential for failure, which, in isolation or in combination with one or more other specific failures or events, could result in failure of certain life limited parts, which could reduce the structural integrity or the controllability of the airplane.

DATES: This AD becomes effective December 17, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 17, 2014.

We must receive comments on this AD by January 16, 2015.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0776; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

On September 17, 2013, we issued AD 2013–20–06, Amendment 39–17612 (78 FR 64156, October 28, 2013). AD 2013–20–06 applied to all Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes. AD 2013–20–06 was prompted by a determination that existing maintenance requirements were are not adequate to address the unsafe condition. AD 2013–20–06 required revising the maintenance program to incorporate certain maintenance requirements and airworthiness limitations. We issued AD 2013–20–06 to address the aging effects of aircraft systems. Such aging effects could change the characteristics of systems life-limited components leading to an increased potential for failure, which, in isolation or in combination with one or more other specific failures or events, could result in failure of certain life limited parts, which could reduce the structural integrity or the controllability of the airplane.

Since we issued AD 2013–20–06, Amendment 39–17612 (78 FR 64156, October 28, 2013), we determined that existing maintenance requirements are not adequate to address the aging effects of aircraft systems.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0269, dated November 7, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition all Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes. The MCAI states:

> The airworthiness limitations for Airbus aeroplanes are currently published in Airworthiness Limitations Section (ALS) documents.
>
> The airworthiness limitations applicable to the Ageing Systems Maintenance (ASM) are given in Airbus A340 ALS Part 4, which is approved by EASA.
>
> Revision 03 of Airbus A340 ALS Part 4 introduces more restrictive maintenance requirements and/or airworthiness limitations. Failure to comply with these instructions could result in an unsafe condition.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2012–0021 (*http://ad.easa.europa.eu/ad/2012–0021*) [which corresponds to FAA AD 2013–20–06, Amendment 39–17612 (78 FR 64156, October 28, 2013)], which is superseded, and requires accomplishment of the actions specified in Airbus A340 ALS Part 4 at Revision 03.
>
> In addition, this [EASA] AD also supersedes EASA AD 2008–0026 (*http://ad.easa.europa.eu/ad/2008–0026*) [which corresponds to FAA AD 2010–15–02, Amendment 39–16368 (75 FR 42589, July 22, 2010)] and EASA AD 2008–0160 (*http://ad.easa.europa.eu/ad/2008–0160*) [which corresponds to FAA AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009)], whose requirements applicable to A340 aeroplanes have been transferred into Airbus A340 ALS Part 4.

The unsafe condition is the aging effects of aircraft systems. Such aging effects could change the characteristics of systems' life-limited components leading to an increased potential for failure, which, in isolation or in combination with one or more other specific failures or events, could result in failure of certain life limited parts, which could reduce the structural integrity or the controllability of the airplane. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0776.

Relevant Service Information

Airbus has issued A340 Airworthiness Limitations Section (ALS) Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

There are no products of this type currently registered in the United States.

However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

Differences Between This AD and MCAI or Service Information

This AD incorporates Airbus A340 ALS Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012, including the compliance times for the actions. However, the compliance times for certain initial actions are different from those specified in Airbus A340 ALS Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012, because the actions and associated compliance times were required by AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009). Therefore, the initial compliance time for these actions is relative to the effective date of the applicable superseded AD, as specified in paragraph (h) of this AD.

The MCAI specifies that if there are findings from the ALS inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this AD.

Related Rulemaking

Certain maintenance requirements specified in A340 ALS Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012, are already required by other ADs. Therefore, accomplishing the actions required by this AD will terminate the requirements of the following ADs for Model A340 airplanes.

- AD 2003–14–11, Amendment 39–13230 (68 FR 41521, July 14, 2003).
- AD 2004–11–08, Amendment 39–13654 (69 FR 31874, June 8, 2004).
- AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004).
- AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004).
- AD 2007–05–12, Amendment 39–14973 (72 FR 10057, March 7, 2007).
- AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)).
- AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012).
- AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009), which requires the identification and modification of certain standard spoiler servo-controls; and
- AD 2010–15–02, Amendment 39–16368 (75 FR 42589, July 22, 2010), which requires various detailed visual inspections for corrosion and wear detection of the input gear box and down drive shafts of all wing flap tracks and corrective actions.

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2014–0776; Directorate Identifier 2013–NM–240–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD affects 0 airplanes of U.S. registry.

We estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2013–20–06, Amendment 39–17612 (78 FR 64156, October 28, 2013), and adding the following new AD:

2014–23–17 Airbus: Amendment 39–18033. Docket No. FAA–2014–0776; Directorate Identifier 2013–NM–240–AD.

(a) Effective Date

This AD becomes effective December 17, 2014.

(b) Affected ADs

(1) This AD replaces AD 2013–20–06, Amendment 39–17612 (78 FR 64156, October 28, 2013).

(2) This AD affects the requirements of the ADs specified in paragraphs (j)(1) through (j)(9) of this AD.

(c) Applicability

This AD applies to Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that existing maintenance requirements are not adequate to address the aging effects of aircraft systems. We are issuing this AD to address the aging effects of aircraft systems. Such aging effects could change the characteristics of systems life-limited components leading to an increased potential for failure, which, in isolation or in combination with one or more other specific failures or events, could result in failure of certain life limited parts, which could reduce the structural integrity or the controllability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Maintenance/Inspection Program Revision

Within 6 months after the effective date of this AD, revise the maintenance program or inspection program, as applicable, by incorporating Airbus A340 Airworthiness Limitations Section (ALS) Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012. The initial compliance times for the actions are within the applicable compliance time specified in the Record of Revisions page of Airbus A340 ALS Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012, or within 6 months after the effective date of this AD, whichever is later, except as required by paragraph (h) of this AD.

(h) Exceptions to Initial Compliance Times

(1) Where Airbus A340 ALS Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012, defines a calendar compliance time for the modification of spoiler servo-controls having part numbers MZ4339390–01X; MZ4306000–01X; MZ4339390–02X; MZ4306000–02X; MZ4339390–10X; and MZ4306000–10X as "March 5, 2010," the calendar compliance time is April 14, 2011 (18 months after October 14, 2009 (the effective date of AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009)).

(2) Where Note 6 of "ATA 27–64, Flight Control—Spoiler Hydraulic Actuation, (Fig. 09)," of Sub-part 4–2–1, Life Limits, of Sub-part 4–2, Systems Life—Limited Components, of the Airbus A340 ALS, Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012, defines a calendar date of "September 5, 2008," as a date for the determination of accumulated flight cycles since the aircraft's initial entry into service, the calendar compliance time is October 14, 2009 (the effective date of AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009)).

(3) Where Note 6 of "ATA 27–64 Flight Control—Spoiler Hydraulic Actuation, (Fig. 09)," of Sub-part 4–2–1, Life Limits, of Sub-part 4–2, Systems Life—Limited Components, of the Airbus A340 ALS, Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012, defines a calendar compliance time of "March 5, 2010," for the modification of affected servo-controls, the calendar compliance time is April 14, 2011 (18 months after October 14, 2009 (the effective date of AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009)).

(i) Alternative Actions or Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.*, inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(j) Terminating Action for Other ADs

Accomplishing the revision of the maintenance program and complying with all applicable instructions and airworthiness limitations required by paragraph (g) of this AD terminates the requirements of the ADs specified in paragraphs (j)(1) through (j)(9) of this AD for Model A340 airplanes only.

(1) AD 2003–14–11, Amendment 39–13230 (68 FR 41521, July 14, 2003).

(2) AD 2004–11–08, Amendment 39–13654 (69 FR 31874, June 8, 2004).

(3) AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004).

(4) AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004).

(5) AD 2007–05–12, Amendment 39–14973 (72 FR 10057, March 7, 2007).

(6) AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)).

(7) AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009).

(8) AD 2010–15–02, Amendment 39–16368 (75 FR 42589, July 22, 2010).

(9) AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012).

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2013–0269, dated November 7, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0776.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus A340 Airworthiness Limitations Section (ALS) Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012. The revision date of this document is not identified on the title page of this document. Also, the revision level of this document is identified on only the title page and in the Record of Revisions section of this document.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call

202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on November 13, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–27632 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0433; Directorate Identifier 94–ANE–39–AD; Amendment 39–18041; AD 2014–24–08]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 98–07–07 for all Rolls-Royce plc (RR) RB211–535E4 and RB211–535E4–B turbofan engines. AD 98–07–07 required removing certain part number (P/N) low-pressure (LP) fuel filter-to-high-pressure (HP) fuel pump tube assemblies and installing flexible LP fuel filter-to-HP fuel pump tube assemblies. This AD expands the applicability of AD 98–07–07 to include the RB211–535E4–C–37 turbofan engine and requires removal from service of additional P/N LP fuel filter-to-high-pressure HP fuel pump tube assemblies. This AD was prompted by reports of fuel leaks that have resulted in a number of engine in-flight shutdowns. We are issuing this AD to prevent loss of fuel supply to the engine, which could lead to an in-flight shutdown of one or more engines, loss of thrust control, and damage to the airplane.

DATES: This AD is effective January 6, 2015.

ADDRESSES: For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE24 8BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://www.aeromanager.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0433; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information, regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kenneth Steeves, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7765; fax: 781–238–7199; email: *kenneth.steeves@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 98–07–07, Amendment 39–10426 (63 FR 18119, April 14, 1998), ("AD 98–07–07"). AD 98–07–07 applied to the specified products. The NPRM published in the **Federal Register** on July 24, 2014 (79 FR 42989). The NPRM proposed to expand the applicability of AD 98–07–07 to include the RB211–535E4–C–37 turbofan engine and added two additional P/Ns identified for removal.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Support for the NPRM as Proposed

United Airlines supports issuing the NPRM (79 FR 42989, July 24, 2014) as proposed.

Request To Change the Compliance

FedEx Express requested that the proposed AD require removal of only fuel tube assemblies, P/Ns 163521538 and 163521545. These are the only fuel tube assemblies that are required to be removed by RR Service Bulletin No. RB.211–73–H131 and European Aviation Safety Agency AD 2014–0123.

We do not agree. This AD will supersede AD 98–07–07. AD 98–07–07 required the removal of fuel tube assemblies, P/Ns UL16692 and AE709623–1. Continuing to include these P/Ns would ensure, in the unlikely event that there is an engine containing fuel tube assemblies, P/Ns UL16692 and AE709623–1, that these fuel tube assemblies would still be removed. We did not change this AD.

Change to the Compliance

We changed paragraph (e)(2) of this AD to mandate installation of LP fuel filter-to-HP fuel pump tube assemblies eligible for installation. Paragraph (e)(2) was changed to support the Costs of Compliance as proposed in the NPRM (79 FR 42989, July 24, 2014).

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 500 engines installed on airplanes of U.S. registry. We also estimate that it will take about 7.33 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $10,000 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $5,311,525.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order

13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 98–07–07, Amendment 39–10426 (63 FR 18119, April 14, 1998), and adding the following new AD:

2014–24–08 Rolls-Royce plc: Amendment 39–18041; Docket No. FAA–2014–0433; Directorate Identifier 94–ANE–39–AD.

(a) Effective Date

This AD is effective January 6, 2015.

(b) Affected ADs

This AD supersedes AD 98–07–07, Amendment 39–10426 (63 FR 18119, April 14, 1998).

(c) Applicability

This AD applies to all Rolls-Royce plc (RR) RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–C–37 turbofan engines with low-pressure (LP) fuel filter-to-high-pressure (HP) fuel pump tube assembly, part number (P/N) UL16692, AE709623–1, 163521538, or 163521545, installed.

(d) Unsafe Condition

This AD was prompted by reports of fuel leaks that have resulted in a number of engine in-flight shutdowns. We are issuing this AD to prevent loss of fuel supply to the engine, which could lead to an in-flight shutdown of one or more engines, loss of thrust control, and damage to the airplane.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) After the effective date of this AD, remove from service all LP fuel filter-to-HP fuel pump tube assemblies, P/Ns UL16692, AE709623–1, 163521538, and 163521545, at the next part removal or during the next engine shop visit, whichever occurs first.

(2) Install LP fuel filter-to-HP fuel pump tube assemblies eligible for installation.

(f) Definition

For the purpose of this AD, an "engine shop visit" is the induction of an engine into the shop for maintenance.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE–AD–AMOC@faa.gov.*

(h) Related Information

(1) For more information about this AD, contact Kenneth Steeves, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7765; fax: 781–238–7199; email: *kenneth.steeves@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2014–0123, dated May 15, 2014, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0433-0005.*

(i) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on November 20, 2014.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–28189 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0541; Airspace Docket No. 14–ASO–8]

Amendment of Class D Airspace; MacDill AFB, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends Class D Airspace at MacDill AFB, FL, by adding the words "to but not including 1,200 feet MSL," further clarifying the ceiling in the descriptor of the Class D airspace. This action does not change the boundaries or operating requirements of the airspace.

DATES: Effective 0901 UTC, March 5, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by clarifying in the airspace description the ceiling of the Class D airspace area at MacDill AFB, FL, adding the words "to but not including 1,200 feet MSL". This avoids any confusion with the floor of the overlying Tampa International Airport Class B airspace area, which is 1,200 feet MSL. This is an administrative change and does not affect the boundaries, or operating requirements of the airspace, therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is

not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it further clarifies the description of controlled airspace at MacDill AFB, MacDill, AFB, FL.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, effective September 15, 2014, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D MacDill AFB, FL [Amended]

MacDill AFB, FL

(Lat. 27°50′58″ N., long. 82°31′16″ W.)

Albert Whitted Airport

(Lat. 27°45′54″ N., long. 82°37′37″ W.)

That airspace extending upward from the surface of the Earth to but not including 1,200 feet MSL within a 4.5-mile radius of MacDill AFB; excluding the portion within the Tampa International Airport, FL, Class B airspace area; excluding that portion southwest of a line connecting the 2 points of intersection with a 4 mile radius circle centered on the Albert Whitted Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in College Park, Georgia, on November 17, 2014.

Myron A. Jenkins,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2014–28223 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0600; Airspace Docket No. 14–ASW–6]

Establishment of Class D and E Airspace, and Amendment of Class E Airspace; Hammond, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace and Class E airspace designated as an extension, at Hammond, LA. The establishment of an air traffic control tower has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations within the airspace at Hammond Northshore Regional Airport. This action also amends the airport name and adjusts the geographic coordinates for the current Class E airspace area.

DATES: *Effective date:* 0901 UTC, March 5, 2015. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7654.

SUPPLEMENTARY INFORMATION:

History

On September 25, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class D airspace and Class E airspace for the Hammond, LA area, creating controlled airspace at Hammond Northshore Regional Airport (79 FR 57482) Docket No. FAA–2014–0600. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class D and Class E airspace designations are published in paragraph 5000, 6004, and 6005, respectively, of FAA Order 7400.9Y dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class D airspace extending upward from the surface to and including 2,500 feet MSL within a 4.1-mile radius of Hammond Northshore Regional Airport, Hammond, LA, to accommodate the establishment of an air traffic control tower. Class E airspace designated as an extension is established within a 4.2-mile radius of the airport, with segments extending from the 4.1-mile radius of the airport to 7 miles north and 7 miles southeast of the Hammond VORTAC. Controlled airspace is needed for the safety and management of IFR operations at the airport. This action also updates the geographic coordinates of the airport to coincide with the FAA's aeronautical

database, and reflects the airport name change from Hammond Municipal Airport to Hammond Northshore Regional Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Hammond Northshore Regional Airport, Hammond, LA.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASW LA D Hammond, LA [New]

Hammond Northshore Regional Airport, LA
(Lat. 30°31′18″ N., long. 90°25′06″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.1-mile radius of Hammond Northshore Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

ASW LA E4 Hammond, LA [New]

Hammond Northshore Regional Airport, LA
(Lat. 30°31′18″ N., long. 90°25′06″ W.)
Hammond VORTAC
(Lat. 30°31′10″ N., long. 90°25′03″ W.)

That airspace extending upward from the surface within 2.4 miles each side of the Hammond VORTAC 355° radial extending from the 4.1-mile radius to 7 miles north of the airport, and within 2.4 miles each side of the Hammond VORTAC 128° radial extending from the 4.1-mile radius to 7 miles southeast of the airport. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

ASW LA E5 Hammond, LA [Amended]

Hammond Northshore Regional Airport, LA
(Lat. 30°31′18″ N., long. 90°25′06″ W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Hammond Northshore Regional Airport.

Issued in Fort Worth, TX, on November 20, 2014.

Walter Tweedy,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–28231 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0831; Airspace Docket No. 14–ASO–12]

Amendment of Class E Airspace; Apalachicola, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends Class E Airspace at Apalachicola, FL, as Apalachicola Municipal Airport has been renamed Apalachicola Regional Airport. This action also updates the geographic coordinates of the airport.

DATES: Effective 0901 UTC, March 5, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/airtraffic/publications/*. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by updating the airport name and geographic coordinates of Apalachicola Regional Airport, formerly Apalachicola Municipal Airport, Apalachicola, FL. This is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the surrounding controlled airspace, therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace in Apalachicola, FL.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, effective September 15, 2014, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO FL E5 Apalachicola, FL [Amended]

Apalachicola Regional Airport, FL
(Lat. 29°43′39″ N., long. 85°01′39″ W.)

That airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Apalachicola Regional Airport

Issued in College Park, Georgia, on November 17, 2014.

Myron A. Jenkins,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2014–28225 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0792; Airspace Docket No. 14–ASO–11]

Amendment of Class E Airspace; Roanoke Rapids, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends Class E Airspace at Roanoke Rapids, NC, as Halifax County Airport has been abandoned, no longer requiring controlled airspace.

DATES: Effective 0901 UTC, March 5, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/airtraffic/publications/*. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by removing Class E airspace extending upward from 700 feet above the surface at Halifax County Airport, Roanoke Rapids, NC. The airport has been abandoned, therefore, no longer requires controlled airspace. This is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the surrounding controlled airspace, therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in

Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace in the Roanoke Rapids, NC, area.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, effective September 15, 2014, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO NC E5 Roanoke Rapids, NC [Amended]

Halifax-Northampton Regional Airport, NC
(Lat. 36°19′47″ N., long. 77°38′07″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Halifax-Northampton Regional Airport.

Issued in College Park, Georgia, on November 17, 2014.

Myron A. Jenkins,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2014–28227 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 140311229–4978–02]

RIN 0648–BE09

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska Trawl Economic Data Report

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement the Gulf of Alaska (GOA) Trawl Economic Data Report Program to evaluate the economic effects of current and potential future fishery management measures for the GOA trawl fisheries. This data collection program will provide the North Pacific Fishery Management Council (Council) and NMFS with baseline economic information on harvesters, crew, processors, and communities active in the GOA trawl fisheries, which will be used to assess the impacts of anticipated future GOA trawl groundfish management measures on stakeholders. The data collected for this program will be submitted by owners and leaseholders of GOA trawl vessels, owners and leaseholders of processors receiving deliveries from those trawl vessels, and owners and leaseholders of trawl catcher/processors. The types of data collected will include, but not be limited to, labor data, revenues, capital and operational expenses, and other operational or financial data. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Management Plan for Groundfish of the Gulf of Alaska, and other applicable laws.

DATES: *Effective:* January 1, 2015.

ADDRESSES: Electronic copies of this rule, the Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), Categorical Exclusion, and Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov*. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; and by email to *OIRA_Submission@omb.eop.gov* or faxed to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Jeff Hartman, 907–586–7228

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the GOA and Bering Sea and Aleutian Islands Management Area under the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (collectively, the FMPs). The Council prepared these FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

This final rule implements the Gulf of Alaska Trawl Economic Data Report Program to collect baseline economic data on the GOA trawl groundfish fishery. The data will help the Council and NMFS to evaluate the effect of a prospective GOA trawl catch share management program on harvesters, processors, and communities. The program will collect data annually from January 1, 2015, onward and require that participants submit the data in an economic data report (EDR). The program will minimize the economic data reporting burden by only collecting reliable, relevant data that NMFS cannot obtain from existing data collections.

The Council is considering new management measures so participants in the GOA trawl fisheries can efficiently reduce prohibited species catch (PSC). One of the management measures the Council is considering for the GOA groundfish trawl fishery is a catch share program. A catch share program allocates exclusive harvest privileges for certain groundfish or shellfish species to specific fishery participants. An exclusive harvest privilege allows fishery participants to tailor their fishing operations, such as choosing when to fish, with their available groundfish or other species allocation. This contrasts with open access programs, where participants engage in a "race for fish" with other fishery participants seeking to maximize their harvest before the total allowable catch is reached.

Given the potential for a catch share program in the GOA, the scope of this action includes participants in trawl fisheries in the West Yakutat District, Central GOA regulatory area, and the Western GOA regulatory area, or processors that receive groundfish from those trawl fishery participants. As described in the proposed rule (79 FR 46758, August 11, 2014), the collection of baseline economic data in these regulatory areas will help the Council and NMFS understand the potential economic and employment impacts of a prospective GOA trawl catch share management program on persons participating in specific job categories of fishing, processing, or administration of fishing operations. The data from this program could help guide future decisions about the management of a GOA trawl catch share program.

Actions Implemented by the Final Rule

The GOA Trawl EDR Program establishes economic data submission requirements. The GOA Trawl EDR Program includes one existing, but revised data submission form, and two new data submission forms. The revised data form, the Annual Trawl Catcher/Processor EDR (Trawl C/P EDR), replaces the EDR currently required under the Amendment 80 Program. Owners and leaseholders of a vessel that was named on a Limited License Program (LLP) groundfish license that authorizes a Catcher/processors (C/Ps) using trawl gear to harvest and process LLP groundfish in the GOA must submit the Trawl C/P EDR form. The two new data submission forms implemented by this rule are the Annual Trawl Catcher Vessel EDR (Trawl CV EDR) form and the Annual Shoreside Processor EDR (Processor EDR) form. Owners and leaseholders of any vessel named on an LLP groundfish license that authorizes a catcher vessel using trawl gear to harvest LLP groundfish species in the GOA must submit the new Trawl CV EDR form. Owners and leaseholders of a shoreside or stationary floating processor with a Federal Processor Permit that processes groundfish caught by vessels with trawl gear in the GOA must submit the new Processor EDR form. These three operational groups and three types of EDRs are described in greater detail in the following sections of this preamble, and in the RIR/IRFA at Section 3.7 and 3.9.

NMFS is publishing this final rule implementing the GOA Trawl EDR Program to collect data to assess the future economic effects of any potential GOA trawl catch share program. The two new EDRs (Trawl CV EDR and Processor EDR), and the revised Trawl C/P EDR are effective on January 1, 2015 to ensure that sufficient data is available to assist NMFS and the Council in making such assessment. As of the effective date of January 1, 2015, all persons required to submit an EDR must begin retaining records used to report on a full calendar year of data. The first annual EDRs will be submitted for the calendar year 2015 in June of the following year (*i.e.,* June 2016), and in June of each subsequent year. This implementation schedule provides the EDR submitters with sufficient time to prepare and maintain records necessary to complete and submit the EDR. Persons subject to the EDR submission requirement are, for example, expected to keep associated GOA trawl invoices starting January 1, 2015, that would then be used to calculate cost figures entered into the 2015 EDR.

Finally, this final rule modifies Amendment 80 program regulations at § 679.94(a) to rename the "Amendment 80 Economic Data Report" as the "Annual Trawl Catcher/Processor Economic Data Report" because the Trawl C/P EDR must now be submitted by all GOA trawl vessel owners and operators, not just the participants in the Amendment 80 Program. The final rule implements new regulations at § 679.94(a)(1) and at § 679.110(a)(3) to require the owner or leaseholder of any vessel named on a Limited License Program (LLP) groundfish license that authorizes a C/P using trawl gear to harvest and process LLP groundfish in the GOA to submit a Trawl C/P EDR as described at § 679.94 for that calendar year.

This action streamlines and removes unnecessary regulatory requirements in the regulations implementing the Amendment 80 EDR, codified at § 679.94. Prior to this rule, the regulatory text described data elements that must be submitted in the Amendment 80 EDR data fields, such as costs for oil, fuel, freight, storage, food, and provisions. Rather than specify all the data that must be submitted in the EDR, this rule amends § 679.94 to state that persons required to submit a Trawl C/P EDR are to do so by filling out a Trawl C/P EDR form. The text removed by this rule is unnecessary because it duplicates instructions on each EDR form that describe each data field and what figures should be entered. Removing the regulatory text specifying data that must be submitted does not eliminate the data submission requirement because the regulations retain the EDR submission requirement.

This streamlined approach for specifying data fields in the data form and not in regulation is also applied to the Trawl CV and Processor EDRs. This approach gives NMFS the flexibility to modify EDR data fields without a corresponding regulatory amendment. Furthermore, this approach will prevent confusion if, as has occurred in the past, the data submission text in the regulations and EDR forms differ. Overall, this approach will provide submitters with a clearer understanding of what data must be submitted. This approach allows NMFS to consult with EDR submitters and the Council, and based on the consultations, amend, add, or remove specific data requests as needed. This approach ensures the EDRs provide the data necessary to assess the economic performance of trawl C/Ps in both the Amendment 80 fishery and the GOA fishery on a timely basis.

Responses to Comments

A proposed rule to implement the GOA Trawl EDR Program was published on August 11, 2014 (79 FR 46758), and the comment period ended September 10, 2014. NMFS received two comment letters on the proposed rule from fishing industry representatives associated with GOA trawl fisheries, and one comment letter from a member of the general public. In addition to the public comment on the proposed rule, NMFS received comments from the Small Business Administration (SBA) on the IRFA. The comments from SBA are addressed in the FRFA prepared for this action (See **ADDRESSES**) and the Classification section of this final rule.

The comment from a member of the general public opposed the proposed action but the reasons provided for opposition were not directly related to the proposed action. The comment letters from both fishing industry representatives supported the action and contained four specific comments about the GOA Trawl EDR Program. Following is a summary of and response to these four comments.

Comment 1: Two comments addressed the process that will be used in the future to revise the GOA Trawl EDR forms and instructions. Both comments expressed support for the process described in the RIR/IRFA and the proposed rule to vet any future revisions of the EDR forms through the Council. One comment specifically noted that the current GOA Trawl EDR forms are likely to be redrafted once a new trawl catch share program is implemented in the GOA. When this occurs, the commenter anticipates that the GOA Trawl EDR would be modified to capture the objectives as well as to gather information about the new trawl catch share program's economic

impacts. The commenter further noted that the proposed rule preamble states that specific data fields on the EDR forms will not be described in regulation and requested clarification of the process through which future revisions will be made to the EDR forms and instructions.

Response: NMFS agrees and below, clarifies the process through which future revisions will be made to GOA Trawl EDR forms and instructions. The GOA Trawl EDR forms and instructions that are submitted to OMB for approval are available on the NMFS Alaska Region Web site at: *http://www.alaskafisheries.noaa.gov/sustainablefisheries/trawl/edr.htm.* Any proposed or recommended revisions to GOA Trawl EDR forms or instructions will be forwarded to the Council by NMFS Alaska Region staff for review. NMFS will not make any changes to the GOA Trawl EDR forms or instructions, or start the PRA compliance process, without first consulting the Council. At the conclusion of Council review, NMFS Alaska Region staff will prepare and submit GOA trawl EDR form changes to OMB for approval and PRA compliance.

If NMFS identifies any necessary revisions to the GOA Trawl EDR forms or instructions, the NMFS Alaska Region will forward the recommended revisions to the Council's Executive Director. The Council's Executive Director will determine whether the proposed revisions (1) are minor, for example, and do not warrant Council review, or (2) should be reviewed by the Council, including the Scientific and Statistical Committee and Advisory Panel, during a Council meeting. This procedure allows the Council and public to review any future proposed revisions to these three GOA Trawl EDR forms, prior to their implementation.

Comment 2: The commenter states that portions of the Processor EDR that request labor data are not clear and the instructions should clarify the data requested. According to the preamble, on page 46763 of the proposed rule, "these employment data elements would be aggregated in the EDR for all fisheries, GOA management areas, and gear types." NMFS determined that employment data from processors should not be broken out by fishery because employees may process fish from more than one fishery in a week or month, or participate in more than one type of processing job. The reporting burden for processors to report labor data that is separated by fishery would be burdensome, and potentially delay implementation of this program. Because the preamble states that "the Processor EDR form would collect monthly data on the average number of groundfish processing employment positions and the associated labor hours and wage payments" and that is what is being asked for in Table 1 of the form, the commenter assumes that these are references to groundfish processing only and not non-groundfish processing (*e.g.,* salmon, crab). However, the commenter states, nowhere on the EDR forms are these clarifications articulated.

Response: NMFS agrees that the instructions for the Processor EDR should be revised to clarify that respondents are required to report totals for all groundfish processing labor, aggregating over all groundfish species, fisheries, and locations of catch, and excluding salmon, shellfish, or other non-groundfish processing. Following the process described in the response to Comment 1, NMFS will submit this revision to the Processor EDR instructions to the Council's Executive Director prior to EDR form submission to OMB for PRA compliance and finalization.

Comment 3: The commenter cites to page 46762 of the proposed rule, which states: "based on 2012 data, there are currently 84 LLP licenses endorsed as trawl catcher vessels in the GOA." Although 84 trawl CVs may have been active in the GOA in 2012, the commenter noted that other documents prepared by Council staff stated that "in 2013, 115 CV LLPs were issued with a trawl endorsement in at least one area in the GOA."

Response: The commenter is correct that more than 84 LLP licenses endorsed as trawl catcher vessels in the GOA were issued in 2012. The purpose of the quoted statement in the proposed rule was to provide an estimate of the number of people who would be required to submit Trawl CV EDRs. This information was taken from Table 3–1 in the RIR/IRFA (see **ADDRESSES**), which provided information about both the number of trawl catcher vessels used to harvest groundfish in the GOA, and the total number of LLPs endorsed as trawl catcher vessels in the GOA, from 2010 through 2012.

The instructions for the Trawl CV EDR currently state that "[E]ach owner or leaseholder of a vessel named on a Limited License Program (LLP) groundfish license with catcher vessel and trawl gear designations and endorsed for the Gulf of Alaska (GOA) during a calendar year must submit an Annual Trawl Catcher Vessel EDR for that vessel." The instructions further state that owners or leaseholders of vessels that were used to harvest groundfish in the GOA in a particular year are required to submit the entire Trawl CV EDR for that year and owners or leaseholders of vessels that were not used to harvest groundfish in the GOA in a particular year are required to submit only the certification pages of the Trawl CV EDR for that year.

In 2014, the total number of LLP licenses endorsed as trawl catcher vessels in the GOA was 124. One hundred and nine unique catcher vessels were named on those 124 LLP licenses. Two LLP licenses were not assigned to a particular vessel. Therefore, 13 of the 109 vessels had more than one LLP license issued in its name. Based on this information, NMFS estimates that approximately 109 vessel owners or leaseholders would be required to submit some portion of the Trawl CV EDR. From 2008 through 2013 about 70 catcher vessels with LLPs endorsed for trawl gear in the GOA landed groundfish caught with trawl gear in the GOA. These 70 vessel owners or lease holders would be required to submit the full EDR. The owners of remaining 39 vessels named on an LLP endorsed for trawl gear in the GOA that do not make landings in a particular year would be required to submit just the certification pages for the Trawl CV EDR. Section 3.7.1 and Tables 3–1 and 3–2 in the RIR have been updated to include this information.

Comment 4: The commenter notes that in April 2014, the Council and NMFS agreed that for the Trawl C/P EDR, the number of days of fishing and processing activity in a year, as collected in Table 2.5 of the form, will differentiate between activity in the Amendment 80 fisheries, Central and Western GOA groundfish trawl fisheries, and in all other fisheries. However, the RIR/IRFA does not have a description of this specific decision point made by the Council.

Response: NMFS agrees that the RIR does not include a description of the activity data reported in Table 2.5 of the Trawl C/P EDR. During the development of the draft EDR form for the Western and Central GOA trawl fisheries, the Council stated that the data collection program's purpose was to assist with the Council's development of the Western and Central GOA limited access management measure. To apply data collected from trawl C/P operations in the Western and Central GOA, a portion of Table 2.5 in the Trawl C/P EDR was created to break out activities that occur in different geographic areas of Alaska. Catch and processing data for trawl C/Ps in the Amendment 80 Program confirm that Amendment 80 Program vessel activity occurs in either the Amendment 80 Program fisheries of the

Bering Sea and Aleutian Islands, or in the Western or Central GOA. Therefore, Table 2.5, the vessel activity table, in the Trawl C/P EDR was determined to be the best approach to allocate certain data collected in the Trawl C/P EDR by activities in the Western and Central GOA. While the RIR/IRFA explains that the GOA Trawl EDR Program will be applicable to future Western and Central GOA trawl management measures, it does not detail the decision points outlined here that led to the design of Table 2.5 in the Trawl C/P EDR. The RIR/IRFA has been updated to include a description of the Council's and NMFS' reason for including the revision to Table 2.5.

Changes From the Proposed Rule to the Final Rule

This rule revises § 679.94(a)(4)(i), (a)(4)(ii), (b), (b)(2), and (b)(3); § 679.110(a)(1), (a)(3), (d), (d)(1), (d)(2), (e)(1), (e)(2), and (e)(3) to make editorial changes to clarify the regulations, but do not change the effect of the regulations.

Amendments to 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, Office of Management and Budget (OMB), for each agency information collection. In the regulations at 15 CFR 902.1(b), NMFS identifies the control numbers that have been approved and issued by OMB. Because this final rule revises and adds data elements within a collection-of-information for recordkeeping and reporting requirements, this rule revises 15 CFR 902.1(b) to reference correctly the sections that are from this final rule.

Classification

The Administrator, Alaska Region, NMFS determined that this final rule is necessary for the conservation and management of the groundfish fisheries off Alaska and that it is consistent with the Magnuson-Stevens Act and other applicable law.

Final Regulatory Flexibility Analysis (FRFA)

Pursuant to section 604 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, a FRFA was prepared for this action. The FRFA incorporates the IRFA, and includes a summary of the significant issues raised by public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action.

A copy of the FRFA prepared for this final rule is available from NMFS (see **ADDRESSES**). A description of this action, its purpose, and its legal basis are included at the beginning of the preamble to this final rule and are not repeated here. The FRFA is summarized here.

Comments on the IRFA

NMFS published the proposed rule for this action on August 11, 2014 (79 FR 46758). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The comment period closed on September 10, 2014. NMFS received three public comment letters. These comments did not address the IRFA or the economic impacts of the rule generally.

The Chief Counsel for Advocacy of the SBA commented on the IRFA to the Department of Commerce. These comments included a request that the IRFA be amended to address the following points: 1) Provide a cross-reference to the RIR (Section 2) in the IRFA (or FRFA) to identify the significant alternatives discussed in the RIR; 2) improve the description of small entities directly regulated by the action, by representing them in a table, and provide North American Industry Classification System (NAICS) codes for any category of regulated entities discussed; and 3) expand the discussion on the cost or burden to regulated entities, and apply any previous experience from other NMFS EDRs to use as a basis for reasonable assumptions about costs. Rather than revising the IRFA, which is a completed document accompanying the proposed rule, NMFS is responding to SBA's comments in the FRFA and below.

1. NMFS has provided a cross reference in the FRFA to additional information on significant alternatives for this action found in Section 2 of the RIR/IRFA, and added a description to the FRFA of the eight alternatives and decision points that were considered in this final rule.

2. A table has been added to the FRFA to specify the number of regulated entities and number of small entities that correspond with the NAICS codes and the criteria for determining which entities are small. The NAICS codes that apply to this action are for seafood processing (NAICS 311710) and finfish fishing (NACIS 114111).

3. The cost and burden estimates for this action are added to the FRFA, and have been informed by experience with the three EDRs currently implemented in Alaska groundfish and crab fisheries.

Number and Description of Small Entities Regulated by the Action

The entities directly regulated by this action are 1) those entities that fish groundfish in the Federal waters and parallel fisheries of the GOA with trawl gear, including groundfish catcher vessels and C/Ps (NAICS 114111); 2) shoreside processors or SFPs that take deliveries of groundfish from vessels using trawl gear in the GOA (NAICS 311710); 3) organizations, including cooperatives of finfish fishing vessels with sideboard limits for halibut in the GOA (NAICS 114111); and (4) Community Development Quota (CDQ) groups, which are non-profit organizations (no NAICS code).

The SBA has defined a business primarily involved in finfish harvesting as a small entity if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of $20.5 million, for all its affiliated operations worldwide. Using this size standard, NMFS identified 52 directly regulated small trawl catcher vessels, 2 directly regulated small C/Ps, 53 directly regulated small shoreside or SFPs, and 2 directly regulated small CDQ groups. NMFS did not identify any directly regulated small cooperatives.

Recordkeeping and Reporting Requirements

This action modifies recordkeeping and reporting requirements for directly regulated entities. The costs and burdens of these requirements are summarized in the discussion of the PRA included in this final rule, and are not repeated here.

Impacts on Small Entities

The alternatives considered by the Council were developed with the goal to minimize economic impacts of a data collection program that collects baseline data on GOA trawl fisheries. That goal has resulted in a limited data collection program that focuses on areas that are of greatest need, as the Council considers further development of a trawl catch share program in the GOA. The preferred alternative chosen by the Council and implemented by this final rule has several elements, including the Trawl C/P EDR, the Trawl CV EDR, and the Processor EDR. The preferred alternative (the action alternative to implement the GOA Trawl EDR Program) places somewhat larger reporting obligations on directly regulated small entities than the alternative of retaining the status quo. There are no alternatives that have a

smaller adverse economic impact on directly regulated small entities that still achieve the objectives of the GOA Trawl EDR Program.

NMFS evaluated a number of alternatives to the preferred alternative, including 1) no action; 2) a variety of additional data fields for detecting reasons for decisions to use or not use various PSC avoidance devices or other behaviors to avoid PSC; 3) applying aggregation procedures to the data to limit analysts from having access to individual vessel or processor level observations; 4) collection of landings and production data; 5) creation of blind data for all vessels submitting the Trawl C/P EDR; 6) extending CV logbooks to vessels less than 60 feet length overall; 7) reporting employee activities of vessel owner, operator, or crew for readying a vessel before and after a fishing trip; and 8) itemizing each data reporting field in the GOA Trawl EDR Program in regulation.

The no action alternative (Alternative 1) would not achieve the objectives of this action because much of the economic data on the GOA trawl fisheries and processing operations that are required to evaluate the economic effects of a future GOA trawl catch share management program are not currently collected. Each of the remaining alternatives considered but not proposed, placed additional burden on reporting entities, and were not anticipated to improve the quality and accuracy of data that were necessary for understanding the current economic conditions in the GOA trawl fisheries, or provide substantially improved data to understand the potential impact of a GOA trawl catch share program. None of these alternatives met both the objectives of the action and had a smaller impact on small entities, compared with the preferred alternative.

Thus, no other significant alternatives to the preferred alternative have been identified that meet the Council's goals and objectives of collecting these data without imposing substantially greater economic burdens on industry.

The cost and burden estimates in this FRFA have been informed by experience with the three EDRs currently implemented in Alaska groundfish and crab fisheries. For example, as described in the RIR for this action, many of the variables that were removed from the original annual EDRs currently required of participants in the Crab Rationalization Program fisheries were considered but not included in the two new GOA Trawl EDRs. In addition, many of the data fields that were not selected in the GOA Trawl EDRs are located in other Federal or State of Alaska data collection programs.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preamble to the proposed rule, instructions in the EDR data forms and this final rule serve as the small entity compliance guide required. This action does not require any additional compliance from small entities that is not described in the preamble to the proposed rule, this final rule or EDR data forms. Copies of the proposed rule and final rule are available from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), which have been approved by the Office of Management and Budget (OMB). The requirements are listed below by OMB control number.

OMB Control No. 0648–0564

Public reporting burden is estimated to average 22 hours per response for Trawl Catcher/processor Economic Data Report (EDR).

OMB Control No. 0648–0700

Public reporting burden is estimated to average 15 hours per response for Trawl Catcher Vessel EDR; and three hours per response for the Trawl Shoreside Processor EDR.

Estimated responses include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska fisheries, Reporting and recordkeeping requirements.

Dated: November 20, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 679 as follows:

TITLE 15—COMMERCE AND FOREIGN TRADE

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry "50 CFR", add entries in alphanumeric order for "679.110(a) through (f)" to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
679.110(a) through (f)	–0206, –0334, –0564, –0700
* * * * *	

TITLE 50—WILDLIFE AND FISHERIES

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L/108–447; Pub. L. 111–281.

■ 4. In § 679.2, add, in alphabetical order, definitions for "Blind data" and "Data collection agent," and revise the

definitions for "Designated data collection auditor" and "Economic data report" to read as follows:

§ 679.2 Definitions.

* * * * *

Blind data means any data collected from an economic data report by the data collection agent that are subsequently amended by removing personal identifiers, including, but not limited to social security numbers, crew permit numbers, names and addresses, Federal fisheries permit numbers, Federal processor permit numbers, Federal tax identification numbers, and State of Alaska vessel registration and permit numbers, and by adding in their place a nonspecific identifier.

* * * * *

Data collection agent (DCA) means the entity selected by the Regional Administrator to distribute an EDR to a person required to complete it, to receive the completed EDR, to review and verify the accuracy of the data in the EDR, and to provide those data to authorized recipients.

* * * * *

Designated data collection auditor (DDCA) means an examiner employed by, or under contract to, the data collection agent (DCA) to verify data submitted in an economic data report or the NMFS-designated contractor to perform the functions of a data collection auditor.

* * * * *

Economic data report (EDR) means the report of cost, labor, earnings, and revenue data required under § 679.65, § 679.94, and § 679.110.

* * * * *

■ 5. Revise § 679.94 to read as follows:

§ 679.94 Economic data report (EDR) for the Amendment 80 sector and Gulf of Alaska Trawl Catcher/Processors.

(a) *Annual Trawl Catcher/Processor Economic Data Report (EDR)*—(1) *Requirement to submit an EDR.* A person who held an Amendment 80 QS permit during a calendar year, or an owner or leaseholder of a vessel that was named on a Limited License Program (LLP) groundfish license that authorizes a Catcher/Processor using trawl gear to harvest and process LLP groundfish species in the GOA must submit a complete Annual Trawl Catcher/Processor EDR for that calendar year by following the instructions on the Annual Trawl Catcher/Processor EDR form.

(2) *Deadline.* A completed EDR or EDR certification pages must be submitted as required on the form to NMFS for each calendar year on or before 1700 hours, A.l.t., June 1 of the following year.

(3) *Information required.* The Annual Trawl Catcher/Processor EDR form is available on the NMFS Alaska Region Web site at *www.alaskafisheries.noaa.gov,* or by contacting NMFS at 1–800–304–4846.

(4) *EDR certification pages.* Any person required to submit an EDR under paragraph (a)(1) of this section, or their designated representative, if applicable, must submit the EDR certification statement as either:

(i) *Part of the entire EDR.* A person submitting the completed EDR must attest to the accuracy and completion of the EDR by signing and dating the certification portion of the EDR form; or

(ii) *EDR certification only.* A person submitting a completed EDR certification only must attest that they meet the conditions exempting them from submitting the entire EDR as described in the certification portion of the Annual Trawl Catcher/Processor EDR form and sign and date the certification portion of the EDR form.

(b) *Verification of EDR data.* (1) NMFS, the DCA, or the DDCA will conduct verification of information with a person required to submit the Annual Trawl Catcher/Processor EDR, or if applicable, that person's designated representative.

(2) A person required to submit the Annual Trawl Catcher/Processor EDR or designated representative, if applicable, must respond to inquiries by NMFS, the designated DCA, or the DDCA within 20 days of the date of issuance of the inquiry.

(3) A person required to submit the Annual Trawl Catcher/Processor EDR or designated representative, if applicable, must provide copies of additional data to facilitate data verification. NMFS, the DCA, or the DDCA may review and request copies of additional data provided by the person required to submit the Annual Trawl Catcher/Processor EDR form or designated representative, if applicable, including but not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted in an Annual Trawl Catcher/Processor EDR form.

■ 6. Add subpart J, consisting of § 679.110, to read as follows:

Subpart J—Gulf of Alaska Trawl Economic Data

§ 679.110 Gulf of Alaska Trawl Economic Data Reports (EDRs).

(a) *Requirements to submit an EDR*—(1) *GOA Trawl Catcher Vessels.* The owner or leaseholder of any vessel who is named on a Limited License Program (LLP) groundfish license that authorizes a catcher vessel using trawl gear to harvest LLP groundfish species in the GOA must submit a complete Annual Trawl Catcher Vessel Economic Data Report (EDR) for that calendar year by following the instructions on the Annual Trawl Catcher Vessel EDR form.

(2) *GOA Shoreside Processors and Stationary Floating Processors.* The owner or leaseholder of a shoreside processor or stationary floating processor with a Federal Processor Permit (FPP) that processes groundfish caught by vessels fishing with trawl gear in the GOA must submit a complete Annual Shoreside Processor Economic Data Report (EDR) for that calendar year by following the instructions on the Annual Shoreside Processor EDR form.

(3) *Annual Trawl Catcher/Processor Economic Data Report (EDR).* The owner or leaseholder of a vessel that is named on a Limited License Program (LLP) groundfish license that authorizes a Catcher/Processor using trawl gear to harvest and process LLP groundfish in the GOA must submit an Annual Trawl Catcher/Processor EDR as described at § 679.94 for that calendar year.

(b) *Deadline.* A completed EDR or EDR certification page for:

(1) The Annual Trawl Catcher Vessel EDR or the Annual Shoreside Processor EDR must be submitted to the DCA for each calendar year on or before 1700 hours, A.l.t., June 1 of the following year, or

(2) The Annual Trawl Catcher/Processor EDR must be submitted to NMFS as required at § 679.94(a)(2).

(c) *Information required.* The Annual Trawl Catcher Vessel EDR, Annual Shoreside Processor EDR, and Annual Trawl Catcher/Processor EDR forms are available on the NMFS Alaska Region Web site at *www.alaskafisheries.noaa.gov,* or by contacting NMFS at 1–800–304–4846.

(d) *EDR certification.* A person required to submit an EDR under paragraph (a) of this section, or the designated representative, if applicable, must submit the EDR certification statement as either:

(1) *Part of the entire EDR.* A person submitting the applicable EDR form must attest to the accuracy and completion of the EDR by signing and

dating the certification portion of the applicable EDR form; or

(2) *EDR certification only.* A person submitting a completed EDR certification only must attest that they meet the conditions exempting them from submitting the entire EDR as described in the certification portion of the applicable EDR form and sign and date the certification portion of the form.

(e) *Verification of EDR data.* (1) NMFS, the DCA, or the DDCA will conduct verification of information with a person required to submit the applicable EDR, or if applicable, that person's designated representative.

(2) The person required to submit the applicable EDR or designated representative, if applicable, must respond to inquiries by NMFS, the designated DCA, or the DDCA within 20 days of the date of issuance of the inquiry.

(3) The person required to submit the applicable EDR or designated representative, if applicable, must provide copies of additional data to facilitate data verification. NMFS, the DCA, or the DDCA may review and request copies of additional data provided by the person required to submit the applicable EDR form or designated representative, if applicable, including but not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted in an EDR form.

(f) *DCA authorization.* Except for EDR data submitted as required under § 679.94(a), the DCA is authorized to release unaggregated EDR data to authorized data users in blind data format only.

[FR Doc. 2014–28093 Filed 12–1–14; 8:45 am]

BILLING CODE 3510–22–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 381

[Docket No. 14—CRB–0009–NCEB (2015 COLA)]

Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (COLA) of 2% in the royalty rates that colleges, universities, and other educational institutions not affiliated with National Public Radio pay for the use of published nondramatic musical compositions in the SESAC repertory for the statutory license under the Copyright Act for noncommercial broadcasting.

DATES: *Effective:* January 2, 2015.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, CRB Program Specialist, by telephone at (202) 707–7658 or by email at *crb@loc.gov*.

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act, title 17 of the United States Code, creates a statutory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting.

On November 29, 2012, the Copyright Royalty Judges (Judges) adopted final regulations governing the rates and terms of copyright royalty payments under section 118 of the Copyright Act for the license period 2013–2017. *See* 77 FR 71104. Pursuant to these regulations, on or before December 1 of each year, the Judges shall publish in the **Federal Register** a notice of the change in the cost of living for the rate codified at § 381.5(c)(3) relating to compositions in the repertory of SESAC. The adjustment, fixed to the nearest dollar, shall be the greater of (1) "the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) [CPI–U] . . . during the period from the most recent index published prior to the previous notice to the most recent index published prior to December 1, of that year," 37 CFR 381.10(a), or (2) 2%. 37 CFR 381.10(b), (c).

The change in the cost of living as determined by the CPI–U during the period from the most recent index published before December 1, 2013, to the most recent index published before December 1, 2014, is 1.7%.[1] In accordance with 37 CFR 381.10(b), the Judges announce that the cost of living adjustment for calendar year 2015 shall be 2%. Application of the 2% COLA to the current rate for the performance of published nondramatic musical compositions in the repertory of SESAC— $143 per station—results in an adjusted rate of $146 per station.

List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Television, Rates.

[1] On November 20, 2014, the Bureau of Labor Statistics announced that the CPI–U increased 1.7% over the last 12 months.

Final Regulations

In consideration of the foregoing, the Judges amend part 381 of title 37 of the Code of Federal Regulations as follows:

PART 381—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1), and 803.

■ 2. Section 381.5 is amended by revising paragraph (c)(3)(iii) to read as follows:

§ 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

* * * * *

(c) * * *

(3) * * *

(iii) 2015: $146 per station.

* * * * *

Dated: November 28, 2014.

Jesse Feder,

Copyright Royalty Judge.

[FR Doc. 2014–28457 Filed 11–28–14; 4:15 pm]

BILLING CODE 1410–72–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 12

Technical Amendment for Information Collection Regarding Designee for Patient Personal Property

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This final rule will add the Office of Management and Budget approval number for the new collection of information in the Department of Veterans Affairs (VA) regulation that governs a competent veteran's designation of a person to receive the veteran's funds and personal effects in the event that such veteran was to die while in a VA field facility.

DATES: This final rule is effective December 15, 2014.

FOR FURTHER INFORMATION CONTACT: Kristin J. Cunningham, Director, Business Policy, Chief Business Office (10NB6), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 382–2508. This is not a toll free number.

SUPPLEMENTARY INFORMATION: In a document published in the **FEDERAL REGISTER** at 79 FR 68127 (November 14, 2014), VA amended its regulation concerning the disposition of a veteran's funds and effects. The Paperwork Reduction Act of 1995 (44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. See also 5 CFR 1320.8(b)(3)(vi). The rulemaking imposed a new information collection requirement in 38 CFR 12.1. If a veteran dies in a VA field facility, any funds or personal effects belonging to the veteran must be turned over to a person designated by the veteran. VA requests and encourages a veteran to name a person as a designee in order to facilitate the process of disposition of the veteran's funds and effects. VA also allows the veteran the opportunity to change or revoke such designee at any time. The information obtained through this collection eliminates some of the burden on the deceased veteran's survivors in the event of the veteran's death in a VA field facility.

Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. See also 5 CFR 1320.8(b)(3)(vi). As required by 44 U.S.C. 3507(d), VA submitted this information collection to OMB for its review. Therefore, in the final rule, we included language in § 12.1 indicating the information collection was pending Office of Management and Budget approval. OMB subsequently approved this new information collection on November 24, 2014, and assigned OMB control number 2900–0817. This final rule updates § 12.1 by adding the approved OMB control number.

List of Subjects in 38 CFR Part 12

Estates, Veterans.

For the reasons set out in the preamble, the Department of Veterans Affairs further amends 38 CFR part 12, as amended on November 14, 2014 (79 FR 68127), effective December 15, 2014, as follows:

PART 12—DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS

■ 1. The authority citation for part 12 continues to read as follows:

Authority: 38 U.S.C. 501, 8501–8528.

§ 12.1 [Amended]

■ 2. Amend § 12.1 by removing "(The information collection is pending Office of Management and Budget approval.)" and adding in its place "(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900–0817.)"

Dated: November 26, 2014.

William F. Russo,

Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2014–28377 Filed 12–1–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 409

[CMS–1611–CN]

RIN 0938–AS14

Medicare and Medicaid Programs; CY 2015 Home Health Prospective Payment System Rate Update; Home Health Quality Reporting Requirements; and Survey and Enforcement Requirements for Home Health Agencies; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects a technical error in the final rule that appeared in the **Federal Register** on November 6, 2014, entitled "Medicare and Medicaid Programs; CY 2015 Home Health Prospective Payment System Rate Update; Home Health Quality Reporting Requirements; and Survey and Enforcement Requirements for Home Health Agencies."

DATES: *Effective Date:* This document is effective on January 1, 2015.

FOR FURTHER INFORMATION: Hillary Loeffler, (410) 786–0456.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2014–26057 of November 6, 2014 (79 FR 66032), there was a technical error identified and corrected in the Correction of Errors section below. The provisions in this correction document are effective as if they had been included in the document that appeared in the November 6, 2014 **Federal Register**. Accordingly, the correction is effective January 1, 2015.

II. Summary of Errors

On page 66104, in our discussion about our decision to finalize the proposed changes to the regulations at § 409.44, we inadvertently stated that the changes were effective for episodes "ending" on or after January 1, 2015. Consistent with the comment response prior to the final decision discussion on page 66104 stating that "[t]he new therapy reassessment requirement will apply to episodes that begin on or after January 1, 2015," we meant to state that the therapy reassessment changes finalized in the regulations at § 409.44 are effective for episodes "beginning" on or after January 1, 2015. At least every 30 days a qualified therapist (instead of an assistant) must provide the needed therapy service and functional reassessment of the patient. Where more than one discipline of therapy is being provided, a qualified therapist from each of the disciplines must provide the needed therapy service and functionally reassess the patient at least every 30 days. Therapy reassessments are to be performed using a method that would include objective measurement, in accordance with accepted professional standards of clinical practice, which enables comparison of successive measurements to determine the effectiveness of therapy goals. Such objective measurements would be made by the qualified therapist using measurements which assess activities of daily living that may include but are not limited to eating, swallowing, bathing, dressing, toileting, walking, climbing stairs, or using assistive devices, and mental and cognitive factors. The measurement results and corresponding effectiveness of the therapy, or lack thereof, must be documented in the clinical record.

III. Waiver of Proposed Rulemaking

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 therefore in the notice.

Since this correction document is simply correcting an applicability date for one provision, it is unnecessary to follow the notice and comment procedure in this instance. We therefore believe that we have good cause to forego notice and a period for comment.

IV. Correction of Errors

In FR Doc. 2014–26057 of November 6, 2014 (79 FR 66032), make the following correction:

1. On page 66104, in the third column, in the fifth paragraph beginning with "Final Decision", in the third line of the first sentence, remove "ending" and add "beginning" in its place.

Dated: November 25, 2014.

C'Reda Weeden,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2014–28396 Filed 12–1–14; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[PS Docket No. 13–87; PS Docket No. 06–229, WT Docket No. 96–86, RM–11433 and RM–11577, FCC 14–172]

Service Rules Governing Narrowband Operations in the 769–775/799–805 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission implements certain changes to the rules governing the 700 MHz public safety narrowband spectrum (769–775/799–805 MHz). We eliminate the requirement for licensees to narrowband to 6.25 kHz technology by December 2016, thereby enabling licensees to extend the life of existing systems and providing public safety with greater flexibility in determining the optimal future use of the band. In addition, we revise and update the technical rules for the band to enhance interoperability and open up certain channels to new uses, and we release reserve spectrum to provide additional capacity, particularly for public safety licensees relocating to the 700 MHz band from the T-Band (470–512 MHz). These rule changes enhance the ability of public safety licensees to use this spectrum to protect the safety of life and property.

DATES: Effective January 2, 2015, except for the amendments to 47 CFR 2.1033(c)(20), 90.531(b)(2), and 90.531(b)(7), containing new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995, which will be effective after such approval on the effective date specified in a notification the Commission will publish in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Brian Marenco, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–0838.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in PS Docket No. 13–87, FCC 14–172, released on October 24, 2014. The document is available for download at *http://fjallfoss.fcc.gov/edocs_public/.* The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

In 2013, the Commission's Notice of Proposed Rulemaking (NPRM) sought comment on several proposals to amend the 700 MHz public safety narrowband rules. First, the Commission asked whether it should extend or eliminate the December 31, 2016 narrowbanding deadline for 700 MHz public safety narrowband licensees. Next, it sought comment on a 2010 National Public Safety Telecommunications Council (NPSTC) proposal to designate certain 700 MHz narrowband channels for low-altitude, low power, air-ground voice communications. Finally, it sought comment on other NPSTC proposals made in an earlier 2008 petition and matters raised on the Commission's own motion.

In the Report and Order the Commission eliminates the December 31, 2016 narrowbanding deadline for 700 MHz public safety narrowband licensees to transition from 12.5 kilohertz to 6.25 kilohertz channel bandwidth technology. The Commission also re-designates channels in the 700 MHz band that are currently licensed for secondary trunking operations for public safety aircraft voice operations, consistent with NPSTC's 2010 proposal. The Commission reallocates the Reserve Channels to General Use Channels and affords T-Band public safety licensees priority for licensing of the former Reserve Channels in T-Band areas. The Commission also addresses NPSTC's proposals and technical matters raised in the NPRM. As a result of our decision to eliminate the 700 MHz narrowbanding deadline and designate the Reserve Spectrum for General Use, we dismiss as moot several requests for waiver filed prior to and during the pendency of this rulemaking.

Procedural Matters

A. Final Regulatory Flexibility Analysis

The Final Regulatory Flexibility Analysis required by section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, is included in Appendix A of the Report and Order.

B. Paperwork Reduction Act of 1995 Analysis

The Report and Order document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new information collection requirements contained in this proceeding.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the NPRM of this proceeding. The Commission sought written public comment on the IRFA. The RFA requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Proposed Rules

1. In the Report and Order, we amend the Commission's rules governing 700 MHz public safety narrowband spectrum at 769–775 MHz and 799–805 MHz. The rule changes adopted are intended to promote flexible and efficient use of public safety narrowband spectrum in the 700 MHz band while reducing the regulatory burdens on licensees wherever possible. In order to achieve these objectives, we:

- Eliminate the December 31, 2016 narrowbanding deadline for 700 MHz public safety narrowband licensees to transition from 12.5 kilohertz to 6.25 kilohertz channel bandwidth technology.
- Redesignate channels in the 700 MHz band that are currently licensed for secondary trunking operations for public safety aircraft voice operations, at a maximum ERP of 2 watts, consistent with NPSTC's 2010 proposal.
- Decline to establish a Nationwide Interoperability Travel Channel.
- Allow voice operations on Data Interoperability Channels on a secondary basis.
- Reallocate the Reserve Channels to General Use Channels and afford T-Band public safety licensees priority for licensing of the former Reserve Channels in T-Band areas.
- Decline to increase the permissible 2 watt ERP for radios operating on the mobile-only low power channels.
- Encourage manufacturers to demonstrate compliance with § 90.548 of the Commission's rules (Interoperability Technical Standards) by submitting evidence of Compliance Assessment Program (CAP) approval. Alternatively, manufacturers may provide a document demonstrating how they determined that their devices are interoperable across vendors and meet § 90.548 requirements.
- Adopt rules governing the spectral output of signal boosters when simultaneously retransmitting multiple signals.
- Adopt effective radiated power (ERP) as a regulatory parameter in place of transmitter power output (TPO).
- Recommend, but do not require, that 700 MHz radios operating on interoperability calling channels employ the Network Access Code (NAC) $293.
- Clarify that 700 MHz radios must be capable of being programmed for all 64 interoperability channels, but that all 64 channels need not be immediately accessible to the user.
- Clarify that the rules do not allow analog operation on the 700 MHz interoperability channels.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

1. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

2. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

3. *Public Safety Radio Licensees.* As a general matter, Public Safety Radio Licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. For the purpose of determining whether a Public Safety Radio Licensee is a small business as defined by the SBA, we use the broad census category, Wireless Telecommunications Carriers (except Satellite). This definition provides that a small entity is any such entity employing no more than 1,500 persons. The Commission does not require Public Safety Radio Licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many Public Safety Radio licensees constitute small entities under this definition.

4. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment." The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. According to Census bureau data for 2007, there were a total of 919 firms in this category that operated for the entire year. Of this total, 771 had fewer than 100 employees and 148 had more than 100 employees. Thus, under that size standard, the majority of firms can be considered small.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

2. This Report and Order adopts a rule that will entail reporting, recordkeeping, and/or third-party consultation. Specifically, the Report and Order requires all Wireless Communications Equipment Manufacturers that manufacture 700 MHz narrowband equipment capable of operating on the interoperability channels to demonstrate compliance with the Commission's Interoperability Technical Standards. One method of demonstrating this compliance is demonstrating compliance with the Project 25 Compliance Assessment Program (CAP). CAP is a program that establishes an independent compliance assessment process to ensure that communications equipment conforms to Project 25 standards and is interoperable across vendors. The purpose of this rule is to enhance interoperability and provide assurance to licensees that their equipment is interoperable across vendors regardless of which vendor they choose. Thus, the Report and Order establishes the presumption that CAP compliance is sufficient to show compliance with § 90.548. Alternatively, a manufacturer may submit a document describing how it determined compliance with Section 90.548 and that its equipment is interoperable across vendors. The Report and Order concludes this is the most effective means of ensuring licensee adherence with § 90.548 of our rules. The estimated burden and cost levels for equipment certification are described in more detail in the supporting statement for OMB Control No. 3060–0057.

3. This Report and Order designates the twenty-four 12.5 kilohertz bandwidth reserve channel pairs for General Use subject to the approved regional planning committee regional plans. To date, only 47 out of 55 regions have obtained approval for their plans. As a result, we direct these 47 700 MHz

regional planning committees that have obtained approval for their regional plans to modify their plans to reflect the new 700 MHz narrowband General Use reserve spectrum allocation adopted in this Report and Order. Therefore, these 47 regions will incur a one-time burden as they implement the final rule. Similarly, we estimate that each of the 55 regional planning committees will receive information on how to incorporate the reserve channels into their plans from approximately 20 eligible entities, so that the total number of third party respondents is estimated to be approximately 1100. The estimated burden and cost levels are described in more detail in the supporting statement for OMB 3060–0805, ICR Ref No. 201103–3060–001.

4. This Report and Order designates the twenty-four 12.5 kilohertz bandwidth reserve channel pairs for General Use subject to the approved regional planning committees' regional plans. Each applicant for General Use Reserve Spectrum shall notify the relevant Regional Planning Committee(s) prior to filing a license application with the Commission and allow the Regional Planning Committee the opportunity to review the application and prepare a statement of concurrence. Any statement of concurrence from the Regional Planning Committee shall be submitted with the applicant's license application. Therefore, these licensees and regional planning committees will incur a one-time burden each time an application is filed with the Commission. The estimated burden and cost levels are described in more detail in the supporting statement for OMB 3060–1198, ICR Ref. No. 201404–3060–023. Additionally, T-Band incumbents that seek to license the Reserve Channels must commit to return to the Commission an equal amount of T-Band spectrum.

5. This Report and Order redesignates the Secondary Trunking Channels to support Air-Ground communications subject to State administration. We assign responsibility for coordinating these channels to the states. Each applicant for Air-Ground spectrum shall notify the relevant State prior to filing a license application with the Commission and allow the State the opportunity to review the application and prepare a statement of concurrence. Any statement of concurrence from the State shall be submitted with the applicant's license application.

6. This Report and Order amends the rules to require radios to be capable of being programmed to operate on any of the sixty-four 6.25 kilohertz bandwidth interoperability channels in the 700 MHz band. All 64 channels, however, need not be immediately available to the user. This rule change eliminates an ambiguity in the rules and reduces the compliance requirements for public safety licensees.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

5. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

6. The Report and Order adopts a number of changes to the rules covering operation of public safety systems on narrowband spectrum in the 700 MHz band. In formulating rule changes in the Report and Order, we strived to promote efficient use of the 700 MHz public safety narrowband spectrum while reducing economic burdens on Public Safety Radio Licensees. Absent these rule changes, we conclude that Public Safety Radio Licensees would be subject to increased economic burdens and unnecessary restrictions.

7. *Deadline for Narrowbanding Transition to 6.25 Kilohertz Technology.* The Report and Order eliminates the December 31, 2016 deadline for 700 MHz public safety narrowband licensees to transition to 6.25 kHz bandwidth technology and the December 31, 2014 interim deadline for the cessation of marketing, manufacture, or import of 700 MHz narrowband equipment not capable of operating at 6.25 kilohertz efficiency. Elimination of the 2016 deadline relieves public safety licensees of the economic burden associated with having to replace currently operating communications systems prior to the end of their life-cycle. Elimination of the 2014 deadline allows for the development of industry standards for 6.25 kHz technology which will allow equipment manufacturers to develop equipment designed for interoperability among equipment of all manufacturers as opposed to equipment that can only communicate with a limited number of vendors' equipment.

8. *Air-Ground Communications on Secondary Trunking Channels.* The Report and Order re-designates the secondary trunking channels for air-ground communications to be used by low altitude aircraft and ground based stations. The Report and Order concludes there is a need to designate specific channels in the band for use by low-altitude aircraft and that secondary trunking channels are no longer used for their original purpose. Thus, public safety licensees benefit from this rule change because channels in the band which previously remained fallow become available for the increasingly important function of allowing aircraft responding to emergencies to interoperate with public safety officials on the ground.

9. *Nationwide Interoperability Travel Channel.* The Report and Order declines to re-designate one of the 12.5 kilohertz bandwidth nationwide calling channel pairs as a Nationwide Interoperability Travel Channel. The Report and Order concludes that the adverse impact of reducing the overall channel capacity devoted to nationwide calling interoperability outweighs any potential benefit to public safety licensees of designating a nationwide travel channel.

10. *Voice Communications on Data Interoperability Channels.* The Report and Order permits voice communications on a secondary basis on both of the two 12.5 kilohertz bandwidth data-only interoperability channels. This rule change benefits public safety licensees by providing them the flexibility to use additional channels for voice interoperability in jurisdictions that only have limited if any demand for data interoperability.

11. *Reserve Channels.* The Report and Order designates all twenty four 12.5 kilohertz bandwidth Reserve Channel pairs for General Use subject to approved regional planning committee regional plans. The Reserve Channels had been held in reserve to address public safety's developing needs. To further Congress' goal to facilitate relocation of public safety incumbents in the 470–512 MHz T-band, the Report and Order provides priority access to all twenty four 12.5 kilohertz channel pairs for T-Band relocation in the urban areas specified in Section 90.303 of the Commission's rules. Outside the urban areas specified by Section 90.303, the Report and Order permits approved regional planning committees to designate up to eight 12.5 kilohertz channel pairs for temporary deployable trunked use and the rest for General Use, including low power vehicular repeater operation. This approach affords public safety agencies with

flexibility in operation on the former Reserve Channels while also avoiding undue economic burdens.

12. *Power Limit for Low Power Channels.* The Report and Order declines to increase the power limit on the low power channels from two to twenty watts effective radiated power (ERP). The Report and Order concludes public safety licensees would benefit from retaining these channels for their original intended purpose of providing first responders with on-scene low-power communications. The Report and Order instructs licensees needing additional transmit power in order to communicate over large distances or to penetrate RF-resistant buildings to consider the numerous full power narrowband channels available in the band.

13. *Compliance with Interoperability Technical Standards.* The Report and Order requires equipment manufacturers to demonstrate compliance with the requisite Interoperability Technical Standards as a condition for equipment certification. This will provide a benefit to public safety licensees by ensuring that only equipment that has been tested for trunked and conventional interoperability in a vendor-neutral environment can be marketed. This will provide the additional benefit of engendering competition in the public safety equipment marketplace by eliminating system compatibility as a gating factor when evaluating equipment purchases. We have attempted to reduce the burden on equipment manufacturers by allowing them to meet this standard by demonstrating compliance with the Project 25 Compliance Assessment Program. Compliance with this program is already a requisite for grant eligibility and agency purchasing standards and thus we feel that any new burden imposed by this requirement would be minimal. Alternatively, manufacturers may demonstrate, independent of the CAP Program, that their equipment is interoperable with that of other manufacturers.

14. *ACP Requirements for Class B Signal Boosters.* The Report and Order exempts Class B signal boosters from the ACP limits of § 90.543(a), but only when such units are simultaneously retransmitting multiple signals. In lieu of the ACP limits, the Report and Order applies the emission limit listed in § 90.543(c) applicable to Class B signal boosters operating in this manner. Wireless Communications Equipment Manufacturers that produce Class B signal boosters benefit from this exemption because they will be able to continue manufacturing and marketing signal boosters capable of operating on 700 MHz public safety narrowband spectrum. Public safety licensees benefit from this exemption because they will continue to have access to signal boosters capable of providing in-building RF coverage in this band. Absent this exemption, public safety licensees may have been unable to find solutions for deficiencies in in-building RF coverage.

15. *Narrowband Power Limits.* The Report and Order converts all power limits from transmitter output power (TPO) to effective radiated power (ERP) and consolidates all power limits into a more comprehensive Section 90.541. The Report and Order also deletes § 90.545 in its entirety because full power TV and DTV stations no longer occupy the band. Thus, this rule section is no longer necessary. Public safety licensees benefit from this update because all power limits will now be in terms of ERP which more accurately defines the actual operating power of the radio and is therefore more suitable for services—such as 700 MHz public safety narrowband operations—which are subject to licensing and frequency coordination.

16. *Interoperability Network Access Code.* The Report and Order declines to specify a standardized Network Access Code (NAC) by rule for operation on the 700 MHz interoperability channels. The NAC is a pre-programmed digital address in a Project 25 radio which allows the radio to "hear" only communications directed to that address from another radio. The *Report and Order* concludes that the choice of a NAC for interoperability channels is best left to regional, state and local public safety agencies to address according to their operational security and organizational needs. This approach affords public safety flexibility in programming radios while avoiding undue economic burdens.

17. *User Access to Interoperability Channels.* The Report and Order clarifies that Commission rules require only that radios be capable of being programmed to operate on any of the interoperability channels, but do not require that all 64 interoperability channels be selectable by the user. This approach affords public safety flexibility in programming radios while avoiding undue economic burdens.

18. *Analog Operation on the Interoperability Channels.* The Report and Order declines to permit users to operate their mobile and portable equipment in analog mode on the interoperability channels. In reaching this decision, the Report and Order concludes that allowing two modulation modes on a channel reserved for interoperable voice communications would seriously impair interoperability.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

19. None.

G. Report to Congress

20. The Commission will send a copy of the *Report and Order*, including the FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

21. Accordingly, *it is ordered* that, pursuant to sections 1, 4(i), 303, 316, 332 and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, 316, 332 and 337, the *Report and Order is hereby adopted.*

It is further ordered that the amendments of the Commission's rules as set forth in Appendix B of the *Report and Order are adopted,* effective January 2, 2015, except for those rules and requirements in §§ 2.1033(c)(20), 90.531(b)(2) and 90.531(b)(7), 47 CFR 2.1033(c)(20), 90.531(b)(2) and 90.531(b)(7), containing new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995, which *will become effective* after such approval, on the effective date specified in a notice that the Commission publishes in the **Federal Register** announcing such approval and effective date.

22. *It is further ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and § 1.925(b)(3) of the Commission's rules, 47 CFR 1.925(b)(3), the Request for Waiver filed by the Washington Metropolitan Area Transit Authority on June 18, 2013, *is dismissed as moot.*

23. *It is further ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and section 1.925(b)(3) of the Commission's rules, 47 CFR 1.925(b)(3), the Request for Waiver filed by the Los Angeles Regional Interoperable Communications System Joint Powers Authority on December 7, 2012, *is dismissed as moot.*

24. *It is further ordered* that, pursuant to section 4(i) of the Communications

Act of 1934, as amended, 47 U.S.C. 154(i), and § 1.925(b)(3) of the Commission's rules, 47 CFR 1.925(b)(3), the Request for Waiver filed by Central Maryland Area Radio Communications (CMARC) on April 3, 2013, *is dismissed as moot.*

25. *It is further ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and § 1.925(b)(3) of the Commission's rules, 47 CFR 1.925(b)(3), the Request for Waiver and Request for Expedited Review and Action for Rulemaking filed by Weld County, Colorado on February 14, 2013, *is dismissed as moot.*

26. *It is further ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and section 1.925(b)(3) of the Commission's rules, 47 CFR 1.925(b)(3), the Request for Waiver and Request for Expedited Review and Action for Rulemaking filed by the Region 12, 700 MHz Regional Planning Committee and the State of Idaho Statewide Interoperability Executive Council on February 8, 2013, *is dismissed as moot.*

27. *It is further ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and section 1.925(b)(3) of the Commission's rules, 47 CFR 1.925(b)(3), the Request for Waiver and Request for Expedited Review and Action for Rulemaking filed by the City of Pueblo, Colorado on December 12, 2012, *is dismissed as moot.*

28. *It is further ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and section 1.925(b)(3) of the Commission's rules, 47 CFR 1.925(b)(3), the Request for Waiver and Request for Expedited Review and Action for Rulemaking filed by the County of Douglas, Colorado on December 12, 2012, *is dismissed as moot.*

29. *It is further ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and section 1.925(b)(3) of the Commission's rules, 47 CFR 1.925(b)(3), the Request for Waiver and Request for Expedited Review and Action for Rulemaking filed by the City of Thornton, Colorado on December 5, 2012, *is dismissed as moot.*

30. *It is further ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and section 1.925(b)(3) of the Commission's rules, 47 CFR 1.925(b)(3), the Request for Waiver and Request for Expedited Review and Action for Rulemaking filed by the Adams County Communications Center, Inc., Colorado on November 29, 2012, *is dismissed as moot.*

31. *It is further ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and section 1.925(b)(3) of the Commission's rules, 47 CFR 1.925(b)(3), the Petition for Waiver filed by the State of Maryland on December 12, 2013, *is dismissed as moot.*

32. *It is further ordered* that the Commission *shall send* a copy of the Report and Order in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 90

Radio.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 90 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 307, 336, and 337, unless otherwise noted.

■ 2. Section 2.1033 is amended by adding paragraph (c)(20) to read as follows:

§ 2.1033 Application for certification.

* * * * *

(c) * * *

(20) Applications for certification of equipment operating under part 90 of this chapter and capable of operating on the 700 MHz interoperability channels (See § 90.531(b)(1) of this chapter) shall include a Compliance Assessment Program Supplier's Declaration of Conformity and Summary Test Report or, alternatively, shall include a document detailing how the applicant determined that its equipment complies with § 90.548 of this chapter and that the equipment is interoperable across vendors.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 3. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r) and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r) and 332(c)(7).

■ 4. Section 90.203 is amended by revising paragraph (m) and removing and reserving paragraph (n).

The revision reads as follows:

§ 90.203 Certification Required.

* * * * *

(m) Applications for part 90 certification of transmitters designed to operate in in 769–775 MHz and 799–805 MHz frequency bands will only be granted to transmitters meeting the modulation, spectrum usage efficiency and channel capability requirements listed in §§ 90.535, 90.547, and 90.548.

* * * * *

■ 5. Section 90.531 is amended by revising paragraphs (b)(1)(i) and (iii), (b)(2), and (b)(6) and (7) to read as follows:

§ 90.531 Band plan.

* * * * *

(b) * * *

(1) * * *

(i) *Narrowband data Interoperability channels.* The following channel pairs are reserved nationwide for data transmission on a primary basis: 279/1239, 280/1240, 921/1881, and 922/1882. Voice operations are permitted on these channels on a secondary basis.

* * * * *

(iii) *Narrowband trunking Interoperability channels.* The following Interoperability channel pairs may be used in trunked mode on a secondary basis to conventional Interoperability operations: 23/983, 24/984, 103/1063, 104/1064, 183/1143, 184/1144, 263/1223, 264/1224, 657/1617, 658/1618, 737/1697, 738/1698, 817/1777, 818/1778, 897/1857, 898/1858. For every ten general use channels trunked at a station, entities may obtain a license to operate in the trunked mode on two of the above contiguous Interoperability channel pairs. The maximum number of Interoperability channel pairs that can be trunked at any one location is eight.

(2) *Narrowband General Use Reserve channels.* The following narrowband channels are designated for General Use subject to Commission approved regional planning committee regional plans and technical rules applicable to General Use channels: 37, 38, 61, 62, 77, 78, 117, 118, 141, 142, 157, 158, 197, 198, 221, 222, 237, 238, 277, 278, 301, 302, 317, 318, 643, 644, 683, 684, 699, 700, 723, 724, 763, 764, 779, 780, 803, 804, 843, 844, 859, 860, 883, 884, 923, 924, 939, 940, 997, 998, 1021, 1022, 1037, 1038, 1077, 1078, 1101, 1102, 1117, 1118, 1157, 1158, 1181, 1182,

1197, 1198, 1237, 1238, 1261, 1262, 1277, 1278, 1603, 1604, 1643, 1644, 1659, 1660, 1683, 1684, 1723, 1724, 1739, 1740, 1763, 1764, 1803, 1804, 1819, 1820, 1843, 1844, 1883, 1884, 1899, 1900.

(i) *T-Band Relocation.* The narrowband channels established in paragraph (b)(2) are designated for priority access by public safety incumbents relocating from the 470–512 MHz band in the urban areas specified in §§ 90.303 and 90.305 of the Commission's rules provided that such incumbent commits to return to the Commission an equal amount of T-Band spectrum and obtains concurrence from the relevant regional planning committee(s). Public safety T-Band incumbents shall enjoy priority access for a five year period starting from the date the Public Safety and Homeland Security Bureau releases a public notice announcing the availability of Reserve Channels for licensing.

(ii) *Deployable Trunked Systems.* Outside the urban areas specified in §§ 90.303 and 90.305 of the Commission's rules, the 700 MHz Regional Planning Committees may designate no more than eight 12.5 kilohertz channel pairs for temporary deployable mobile trunked infrastructure (F2BT) that could be transported into an incident area to assist with emergency response and recovery.

(iii) *General Use.* Outside the urban areas specified in §§ 90.303 and 90.305 of the Commission's rules, the 700 MHz Regional Planning Committees may designate sixteen to twenty four 12.5 kilohertz channel pairs for General Use, including low power vehicular mobile repeaters (MO3).

* * * * *

(6) *Narrowband general use channels.* All narrowband channels established in this paragraph (b), other than those listed in paragraphs (b)(1), (b)(4), (b)(5), and (b)(7) of this section are reserved to public safety eligibles subject to Commission approved regional planning committee regional plans. Voice operations on these channels are subject to compliance with the spectrum usage efficiency requirements set forth in § 90.535(d).

(7) *Air-ground channels.* The following channels are reserved for air-ground communications to be used by low-altitude aircraft and ground based stations: 21/981, 22/982, 101/1061, 102/1062, 181/1141, 182/1142, 261/1221, 262/1222, 659/1619, 660/1620, 739/1699, 740/1700, 819/1779, 820/1780, 899/1859, and 900/1860.

(i) Airborne use of these channels is limited to aircraft flying at or below 457 meters (1500 feet) above ground level.

(ii) Aircraft are limited to 2 watts effective radiated power (ERP) when transmitting while airborne on these channels.

(iii) Aircraft may transmit on either the mobile or base transmit side of the channel pair.

(iv) States are responsible for the administration of these channels.

* * * * *

■ 6. Section 90.535 is amended by revising paragraph (a) and paragraph (d) introductory text to read as follows.

§ 90.535 Modulation and spectrum usage efficiency requirements.

* * * * *

(a) All transmitters in the 769–775 MHz and 799–805 MHz frequency bands must use digital modulation. Mobile and portable transmitters may have analog modulation capability only as a secondary mode in addition to its primary digital mode except on the interoperability channels listed in § 90.531(b)(1). Analog modulation is prohibited on the interoperability channels. Mobile and portable transmitters that only operate on the low power channels designated in § 90.531(b)(3) and (4) are exempt from this digital modulation requirement.

* * * * *

(d) Transmitters designed to operate on the channels listed in paragraphs § 90.531(b)(2), (b)(5), (b)(6), and (b)(7) must be capable of operating in the voice mode at an efficiency of at least one voice path per 12.5 kHz of spectrum bandwidth.

* * * * *

■ 7. Revise § 90.541 to read as follows:

§ 90.541 Transmitting power and antenna height limits.

The transmitting power and antenna height of base, mobile, portable and control stations operating in the 769–775 MHz and 799–805 MHz frequency bands must not exceed the maximum limits in this section. Power limits are listed in effective radiated power (ERP).

(a) The transmitting power and antenna height of base stations must not exceed the limits given in paragraph (a) of § 90.635.

(b) The transmitting power of a control station must not exceed 200 watts ERP.

(c) The transmitting power of a mobile unit must not exceed 100 watts ERP.

(d) The transmitting power of a portable (hand-held) unit must not exceed 3 watts ERP.

(e) Transmitters operating on the narrowband low power channels listed in § 90.531(b)(3) and (4), must not exceed 2 watts ERP.

■ 8. Section 90.543 is amended by revising the introductory text to read as follows:

§ 90.543 Emission limitations.

Transmitters designed to operate in 769–775 MHz and 799–805 MHz frequency bands must meet the emission limitations in paragraphs (a) through (d) of this section. Class A and Class B signal boosters retransmitting signals in the 769–775 MHz and 799–805 MHz frequency bands are exempt from the limits listed in paragraph (a) of this section when simultaneously retransmitting multiple signals and instead shall be subject to the limit listed in paragraph (c) of this section when operating in this manner. Transmitters operating in 758–768 MHz and 788–798 MHz bands must meet the emission limitations in (e) of this section.

* * * * *

§ 90.545 [Removed]

■ 9. Remove § 90.545.

■ 10. Section 90.547 is amended by revising paragraph (a) introductory text to read as follows:

§ 90.547 Narrowband interoperability channel capability requirement.

(a) Except as noted in this section, mobile and portable transmitters operating on narrowband channels in the 769–775 MHz and 799–805 MHz frequency bands must be capable of being programmed to operate on all of the designated nationwide narrowband Interoperability channels pursuant to the standards specified in this part.

* * * * *

■ 11. Section 90.548 is amended by adding paragraph (c) to read as follows:

§ 90.548 Interoperability Technical Standards.

* * * * *

(c) Equipment certified by the P25 Compliance Assessment Program is presumed to comply with this section.

[FR Doc. 2014–28250 Filed 12–1–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 140710571–4977–02]

RIN 0648–BE36

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Restrictions on the Use of Fish Aggregating Devices in Purse Seine Fisheries for 2015

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act) to establish restrictions on the use of fish aggregating devices (FADs) by U.S. purse seine vessels in the western and central Pacific Ocean (WCPO). The restrictions include a prohibition on setting on FADs and other specific uses of FADs during January and February, and July through September of 2015, and a limit of 3,061 sets that may be made on FADs in 2015. This action is necessary for the United States to implement provisions of a conservation and management measure (CMM) adopted by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC or Commission) and to satisfy the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), to which it is a Contracting Party.

DATES: This rule is effective January 1, 2015.

ADDRESSES: Copies of supporting documents prepared for this final rule, including the regulatory impact review (RIR) and the Supplemental Environmental Assessment (SEA) prepared for National Environmental Policy Act (NEPA) purposes, as well as the proposed rule, are available via the Federal e-Rulemaking Portal, at *www.regulations.gov* (search for Docket ID NOAA–NMFS–2014–0115). Those documents, and the small entity compliance guide prepared for this final rule, are also available from NMFS at the following address: Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818. The initial regulatory flexibility analysis (IRFA) and final regulatory flexibility analysis (FRFA) prepared under the authority of the Regulatory Flexibility Act (RFA) are included in the proposed rule and this final rule, respectively.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Michael D. Tosatto, Regional Administrator, NMFS PIRO (see **ADDRESSES**), and by email to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808–725–5032.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 2014, NMFS published a proposed rule in the **Federal Register** (79 FR 60796) to revise regulations at 50 CFR part 300, subpart O, to implement a decision of the Commission. The proposed rule was open for public comment through October 28, 2014.

This final rule is issued under the authority of the WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), which authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the Commission. The authority to promulgate regulations has been delegated to NMFS.

This final rule implements for U.S. fishing vessels some of the purse seine-related provisions of the Commission's Conservation and Management Measure (CMM) 2013–01, "Conservation and Management Measure for Bigeye, Yellowfin and Skipjack Tuna in the Western and Central Pacific Ocean." The preamble to the proposed rule includes detailed background information, including on the Convention and the Commission, the provisions of CMM 2013–01 being implemented in this rule, and the bases for the proposed regulations, which are not repeated here.

New Requirements

This final rule establishes restrictions on the use of FADs and reporting requirements related to the use of FADs that apply to U.S. purse seine vessels in the area of application of the Convention (Convention Area), in all exclusive economic zones (EEZs) and on the high seas between the latitudes of 20° North and 20° South.

1. FAD Restrictions

The FAD restrictions established in this final rule include a prohibition on setting on FADs ("FAD sets") and other specific uses of FADs in January and February and July through September of 2015, as well as a limit of 3,061 FAD sets that may be made in 2015. However, for the reason described below, the FAD prohibitions during January and February and the limit of 3,061 FAD sets are contingent on NMFS issuing a subsequent notice in the **Federal Register**, announcing that the WCPFC has affirmed its decision with respect to restrictions on the use of FADs in 2015.

Paragraph 15 of CMM 2013–01 states that the FAD-related requirements starting in 2015 (apart from the July–September FAD closure) shall only take effect when the Commission has adopted, at its Eleventh Regular Session, ". . . arrangements to ensure that this CMM, consistent with the Convention Article 30 2(c), does not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto SIDS [small island developing States]." Thus, upon completion of the Eleventh Regular Session of the WCPFC, which is scheduled to occur in December 2014, NMFS will determine whether this criterion has been met, and if it finds that it has, NMFS will issue a **Federal Register** notice announcing that these elements of this final rule are in effect. Again, the prohibitions on FAD sets and other uses of FADs from July through September of 2015 will not be contingent on NMFS issuing a subsequent **Federal Register** notice.

Under this final rule, the definition of a FAD for the purpose of the FAD restrictions remains as it is in existing regulations (50 CFR 300.211). It means "any artificial or natural floating object, whether anchored or not and whether situated at the water surface or not, that is capable of aggregating fish, as well as any object used for that purpose that is situated on board a vessel or otherwise out of the water. The definition of FAD does not include a vessel." Although the definition of a FAD does not include a vessel, some of the prohibitions apply to setting on fish that have aggregated in association with a vessel, as described further below.

If NMFS determines that the limit of 3,061 FAD sets is expected to be

reached by a specific future date in 2015, NMFS will issue a notice in the **Federal Register** announcing that FAD sets and other specific uses of FADs in the Convention Area between the latitudes of 20° North and 20° South will be prohibited starting on that specific future date and ending at the end of December 31, 2015. NMFS will issue the notice at least seven calendar days before the effective date of the FAD closure to provide fishermen advance notice of the closure.

The specific activities that will be prohibited during the FAD closure periods (*i.e.*, January and February and July through September, as well as any period after which the FAD set limit has been reached, through December 31, 2015) will remain as they are in existing regulations (50 CFR 300.223(b)). It will be prohibited to:

(1) Set a purse seine around a FAD or within one nautical mile of a FAD;

(2) Set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel, such as by setting the purse seine in an area from which a FAD or a vessel has been moved or removed within the previous eight hours, or setting the purse seine in an area in which a FAD has been inspected or handled within the previous eight hours, or setting the purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel;

(3) Deploy a FAD into the water;

(4) Repair, clean, maintain, or otherwise service a FAD, including any electronic equipment used in association with a FAD, in the water or on a vessel while at sea, except that a FAD may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety, and a FAD may be removed from the water and if removed may be cleaned, provided that it is not returned to the water; and

(5) From a purse seine vessel or any associated skiffs, other watercraft or equipment, do any of the following, except in emergencies as needed to prevent human injury or the loss of human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage: Submerge lights under water; suspend or hang lights over the side of the purse seine vessel, skiff, watercraft or equipment; or direct or use lights in a manner other than as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment, to comply with navigational requirements, and to ensure the health and safety of the crew.

2. Daily FAD Reporting Requirement

For the purpose of estimating and projecting FAD sets with respect to the limit of 3,061 FAD sets, NMFS will count FAD sets using the best information available. This final rule establishes a new reporting requirement for U.S. purse seine vessel owners and operators. Within 24 hours of the end of each day while the vessel is at sea in the Convention Area, the owner or operator must report to NMFS how many sets were made on FADs during that day. The format of the reports and the manner of reporting must follow the instructions provided by the NMFS Pacific Islands Regional Administrator.

Comments and Responses

NMFS received 2 sets of comments on the proposed rule. The comments are summarized below, followed by responses from NMFS.

Comment 1: The proposed action is important, powerful, and will prove beneficial, and will help keep the catch of highly migratory species sustainable. The 24-hour FAD reporting requirement is a good idea. One question/concern is whether fishermen should be given more than 7 days' notice before the use of FADs is prohibited. Would more advance notice help reduce the use of FADs because fishermen could come up with alternative fishing methods? Or would the additional time to think about alternative methods increase fishing rates on HMS to an unacceptable level?

Response: NMFS acknowledges the supportive comments. With respect to the **Federal Register** notice that NMFS would issue in advance of prohibiting FAD sets and other uses of FADs in the event the FAD set limit is expected to be reached, the primary intent of the notice is to give fishermen sufficient time to prepare for the impending prohibitions, to help ensure they are able to fully comply with them. Because affected fishermen will have received advance notice of the limit through the rulemaking process, including a compliance guide, NMFS expects that they will think about and plan for alternative fishing methods and activities before the notice is issued. Consequently, NMFS does not expect that providing more than 7 days' advance notice would have a marked influence on fishermen's behavior, such as the extent of fishing on FADs or fishing rates more generally. Additionally, the briefer the interval between the date the projection is made (and the notice is issued) and the date the limit is expected to be reached, the more accurate the projection is likely to be. Therefore, the longer the advance notice given to fishermen, the more the actual number of FAD sets in 2015 is likely to deviate from the limit. For these reasons, NMFS has maintained in this final rule an advance notice period of "at least 7 days", as in the proposed rule.

Comment 2: The proposed regulations will be insufficient to return the population of bigeye tuna from its overfished condition (smaller than 20 percent of the spawning stock biomass that would exist in the absence of fishing) if current exemptions to the WCPFC measure and lack of enforcement remain unchanged.

More needs to be done than only requiring U.S. vessels to implement WCPFC measures. NOAA has an obligation to be more aggressive in its efforts to bring about more assured sustainability in the WCPO tuna fishery, and this would help create a more even playing field for the U.S. tuna industry. Before additional FAD regulations are established, resources should be invested in enforcement of current WCPFC measures with aggressive consequences for those nations that operate outside of the agreed-upon sustainability guidelines necessary for a healthy fishery. Other legal authorities, including the Pelly Amendment, should be utilized to bolster the effectiveness of the Commission's conservation and management measures.

Response: With respect to the expected effects of the rule on the stock of WCPO bigeye tuna, NMFS recognizes that this regulatory action alone, which applies only to U.S. fishing vessels, will have relatively small effects on the stock, as described in the SEA prepared for the rule. NMFS recognizes that effective management of the tuna resources and fisheries in the WCPO requires cooperation among the WCPFC members.

Furthermore, with respect to enforcement of current WCPFC measures and consequences for nations that operate outside agreed sustainability guidelines, NMFS agrees that achieving a high level of compliance with Commission decisions by all WCPFC members is important to achieve the objectives of the Convention and of Commission decisions like CMM 2013–01, as well as to achieve a more level playing field for the U.S. tuna industry. NMFS notes that the United States, as a member of the WCPFC, is contributing to and has prioritized the development of the Commission's compliance monitoring scheme, with the aim of improving compliance with

Commission decisions by all its members. NMFS recognizes that there are additional laws pertaining to conservation and management measures for tuna stocks and the enforcement of such measures, including the Pelly Amendment. However, the purpose of this rulemaking is limited to satisfying the obligations of the United States to implement the applicable provisions of CMM 2013–01 for U.S. purse seine vessels, including the FAD restrictions.

In addition to comments on the proposed rule, the commenter cited problems with the timeliness and efficacy of the conservation measures adopted by the WCPFC and with the implementation and enforcement of WCPFC decisions, including restrictions on the use of FADs, by other WCPFC members. The commenter stated that the United States should take specific actions to address these problems and to make the WCPFC more successful. These comments are outside the scope of the proposed rule, so NMFS does not respond to them here.

Changes From the Proposed Rule

No changes from the proposed rule have been made in this final rule.

Classification

The Administrator, Pacific Islands Region, NMFS, has determined that this final rule is consistent with the WCPFC Implementation Act and other applicable laws.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act (RFA)

A FRFA was prepared. The FRFA incorporates the IRFA prepared for the proposed rule. The analysis in the IRFA is not repeated here in its entirety.

A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble of the proposed rule and in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule, above. The analysis follows.

Significant Issues Raised by Public Comments in Response to the IRFA

NMFS did not receive any comments on the IRFA.

Description of Small Entities to Which the Rule Will Apply

Small entities include "small businesses," "small organizations," and "small governmental jurisdictions." The Small Business Administration (SBA) has established size standards for all major industry sectors in the United States, including commercial finfish harvesters (NAICS code 114111). A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $20.5 million for all its affiliated operations worldwide.

The final rule will apply to owners and operators of U.S. purse seine vessels used for fishing in the Convention Area. The number of affected vessels is the number licensed under the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (South Pacific Tuna Treaty, or SPTT). The current number of licensed vessels is 40, the maximum number of licenses available under the SPTT (excluding joint-venture licenses, of which there are five available under the SPTT, none of which have ever been applied for or issued).

Based on (limited) available financial information about the affected fishing vessels and the SBA's small entity size standards for commercial finfish harvesters, and using individual vessels as proxies for individual businesses, NMFS believes that all the affected fish harvesting businesses are small entities. As stated above, there are currently 40 purse seine vessels in the affected purse seine fishery. Neither gross receipts nor ex-vessel price information specific to the 40 vessels are available to NMFS. Average annual receipts for each of the 40 vessels during the last 3 years for which reasonably complete data are available (2010–2012) were estimated as follows. The vessel's reported retained catches of skipjack tuna, yellowfin tuna, and bigeye tuna in each year were each multiplied by an indicative Asia-Pacific regional cannery price for that species and year (developed by the Pacific Islands Forum Fisheries Agency and available at *https://www.ffa.int/node/425#attachments*); the products were summed across species for each year; and the sums were averaged across the 3 years. The estimated average annual receipts for each of the 40 vessels were less than the $20.5 million threshold used to classify businesses as small entities under the SBA size standard for finfish harvesting businesses.

Recordkeeping, Reporting, and Other Compliance Requirements

The final rule will establish one new reporting requirement within the meaning of the Paperwork Reduction Act, as well as additional requirements, as described in the **SUPPLEMENTARY INFORMATION** section of this final rule, above. The classes of small entities subject to the requirements and the types of professional skills necessary to fulfill each of the requirements are described in the IRFA.

Disproportionate Impacts

There would be no disproportionate economic impacts between small and large entities operating purse seine vessels as a result of this final rule. Furthermore, there would be no disproportionate economic impacts based on vessel size, gear, or homeport.

Steps Taken to Minimize the Significant Economic Impacts on Small Entities

NMFS considered two alternatives to the proposed FAD restrictions, and one alternative to the proposed daily FAD reporting requirement.

The first alternative for the FAD restrictions would establish a three-month FAD closure period (instead of five months) and a FAD set limit of 2,202 (instead of 3,061) for 2015. The months of the FAD closure period would be July through September. This alternative is based on the second of the two options available to the United States under CMM 2013–01, as described in the proposed rule. The compliance burden associated with this alternative would depend, like that of the proposed action, on the amount of fishing effort that will be available to the fleet in 2015. If the amount of available fishing effort is relatively high, this alternative would likely bring greater economic impacts than the proposed action, and the reverse would be the case for relatively low levels of total available fishing effort. For example, if the fleet makes 51 percent of its sets on FADs during periods when FAD sets are allowed, as it did in 2010–2011, and if fishing effort is evenly distributed through the year, the "breakeven" point, in terms of which of the two actions—the proposed action or a three-month FAD closure in combination with a FAD set limit of 2,202—would bring greater economic impacts to fishing businesses would be approximately 7,402 total sets. In other words, under those assumptions, if more than 7,402 total sets are available to the fleet in 2015, the alternative of a three-month FAD closure in combination with a FAD set limit of 2,202 would likely bring greater economic impacts to fishing businesses than would the proposed action. The reverse would be the case if fewer than 7,402 total sets are available to the fleet in 2015. Although the amount of fishing effort available to the fleet in 2015 cannot be predicted with much

certainty, an interim arrangement for 2015 recently reached among the parties to the SPTT is informative. Under the arrangement, U.S. purse seine vessels will have access to 8,301 fishing days in the waters of the members of the Pacific Islands Forum Fisheries Agency (FFA) in 2015. The fleet also will be able to fish on the high seas, and vessels with fishery endorsements will have access to the U.S. EEZ, although the number of allowable fishing days on the high seas and in the U.S. EEZ in 2015 is likely to be limited (a limit has not yet been set for 2015, but for reference, the limit for 2014 is 1,828 fishing days). Thus, the fleet is likely to have access to at least 8,301 fishing days, and probably closer to 10,000 days, in 2015. In 2010 and 2011, the fleet made approximately 0.93 sets per fishing day, on average (NMFS unpublished data). Thus, the number of sets effectively available to the fleet in 2015 is expected to be more than the estimated "breakeven" point of 7,402 sets identified above. However, the interim arrangement negotiated under the SPTT for 2015 includes limitations on the number of fishing days that may be used in some locations that have been important fishing grounds for the fleet. Consequently, it is conceivable that the number of "effective" or "useable" fishing days available to the fleet in 2015 will be less than the "breakeven" point identified above. NMFS does not have the information that would be needed to conclude whether that will be the case. Thus, because NMFS has not identified any reasons that make the alternative of a three-month FAD closure period and a FAD set limit of 2,202 preferable to the proposed action, NMFS rejects that alternative.

The second alternative for the FAD restrictions would be the same as the proposed restrictions except that it would not be prohibited to set on fish that have aggregated in association with a vessel, provided that the vessel is not used in a manner to aggregate fish (versus a FAD, which by definition does not include a vessel). This would be less restrictive and thus presumably less costly to affected purse seine fishing businesses than the proposed requirements. The number of such sets made historically has been relatively small, averaging about four per year for the entire fleet from 1997 through 2010, according to data recorded by vessel operators in logbooks (examination by NMFS of observer data from selected years indicates a somewhat higher number than the number reported by vessel operators, so vessel logbook data might underestimate the actual number, but the number is still small in comparison to FAD sets). Therefore, the degree of relief in compliance costs of allowing such sets during the FAD closure periods would be expected to be relatively small. NMFS believes that this alternative would not serve CMM 2013–01's objective of reducing the fishing mortality rates of bigeye tuna and young tunas through seasonal prohibitions on the use of FADs as well as would the proposed rule. For that reason, this alternative is rejected.

The alternative for the daily FAD reporting requirement would be the same as the proposed requirement except that it would apply only whenever a vessel is on a fishing trip in the Convention Area, rather than whenever a vessel is at sea (whether it be fishing or transiting) in the Convention Area. This alternative would relieve vessel owners and operators of the reporting requirement when the vessel is transiting without fishing, which would presumably result in lesser compliance costs. However, NMFS does not have information that allows it to readily discern on a near real-time basis whether a given vessel, when at sea, is on a fishing trip or not. Thus, NMFS would have less ability to estimate and project FAD sets in a timely and reliable manner than it would under the proposed rule, and for that reason, this alternative is rejected.

The alternative of taking no action at all is rejected because it would fail to accomplish the objective of the WCPFC Implementation Act or satisfy the international obligations of the United States as a Contracting Party to the Convention.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide has been prepared. The guide will be sent to permit and license holders in the affected fishery. The guide and this final rule will also be available at *www.fpir.noaa.gov* and by request from NMFS PIRO (see **ADDRESSES**).

Paperwork Reduction Act

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by the Office of Management and Budget (OMB) under control number 0648–0649. Public reporting burden for the daily FAD report is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The only comment received by NMFS on this collection-of-information requirement in response to the proposed rule was that the daily FAD report is a good idea. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to Michael D. Tosatto, Regional Administrator, NMFS PIRO (see **ADDRESSES**), and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: November 20, 2014

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 *et seq.*

■ 2. In § 300.218, paragraph (g) is added to read as follows:

§ 300.218 Reporting and recordkeeping requirements.

* * * * *

(g) *Daily FAD reports.* The owner or operator of any fishing vessel of the United States equipped with purse seine gear must, within 24 hours of the end of each day that the vessel is at sea in

the Convention Area, report to NMFS, in the format and manner directed by the Pacific Islands Regional Administrator, how many purse seine sets were made on FADs during that day.

■ 3. In § 300.222, paragraph (rr) is added to read as follows:

§ 300.222 Prohibitions.

* * * * *

(rr) Fail to submit, or ensure submission of, a daily FAD report as required in § 300.218(g).

■ 4. In § 300.223, paragraph (b) is revised to read as follows:

§ 300.223 Purse seine fishing restrictions.

* * * * *

(b) *Use of fish aggregating devices.* (1) During the periods specified in paragraph (b)(2) of this section, owners, operators, and crew of fishing vessels of the United States shall not do any of the activities described below in the Convention Area in the area between 20° N. latitude and 20° S. latitude:

(i) Set a purse seine around a FAD or within one nautical mile of a FAD.

(ii) Set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel, such as by setting the purse seine in an area from which a FAD or a vessel has been moved or removed within the previous eight hours, or setting the purse seine in an area in which a FAD has been inspected or handled within the previous eight hours, or setting the purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel.

(iii) Deploy a FAD into the water.

(iv) Repair, clean, maintain, or otherwise service a FAD, including any electronic equipment used in association with a FAD, in the water or on a vessel while at sea, except that:

(A) A FAD may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety; and

(B) A FAD may be removed from the water and if removed may be cleaned, provided that it is not returned to the water.

(v) From a purse seine vessel or any associated skiffs, other watercraft or equipment, do any of the following, except in emergencies as needed to prevent human injury or the loss of human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage:

(A) Submerge lights under water;

(B) Suspend or hang lights over the side of the purse seine vessel, skiff, watercraft or equipment, or;

(C) Direct or use lights in a manner other than as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment, to comply with navigational requirements, and to ensure the health and safety of the crew.

(2) The requirements of paragraph (b)(1) of this section shall apply:

(i) From July 1 through September 30, 2015; and

(ii) During each of the periods described below, but only after NMFS has issued a notice in the **Federal Register** announcing that the requirements of paragraph (b)(1) of this section are effective during the following periods:

(A) From January 1 through February 28, 2015; and

(B) During any period specified in a **Federal Register** notice issued by NMFS announcing that NMFS has determined that U.S. purse seine vessels have collectively made, or are projected to make, 3,061 FAD sets in the Convention Area in the area between 20° N. latitude and 20° S. latitude in 2015. The **Federal Register** notice will be published at least seven days in advance of the start of the period announced in the notice. NMFS will estimate and project the number of FAD sets using vessel logbooks, and/or other information sources that it deems most appropriate and reliable for the purposes of this section.

* * * * *

[FR Doc. 2014–28105 Filed 12–1–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 140429387–4971–02]

RIN 0648–XD276

Atlantic Highly Migratory Species; 2015 Atlantic Shark Commercial Fishing Seasons

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

ACTION: Final rule; fishing season notification.

SUMMARY: This final rule establishes opening dates and adjusts quotas for the 2015 fishing seasons for the Atlantic commercial shark fisheries. The quota adjustments are based on over- and/or underharvests experienced during 2014 and previous fishing seasons. In addition, NMFS establishes season opening dates based on adaptive management measures to provide, to the extent practicable, fishing opportunities for commercial shark fishermen in all regions and areas. These actions could affect fishing opportunities for commercial shark fishermen in the northwestern Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea.

DATES: This rule is effective on January 1, 2015. The 2015 Atlantic commercial shark fishing season opening dates and quotas are provided in Table 1 under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Guý DuBeck or Karyl Brewster-Geisz at 301–427–8503.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic commercial shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. For the Atlantic commercial shark fisheries, the 2006 Consolidated HMS FMP and its amendments established, among other things, commercial quotas for species and management groups, accounting measures for under- and overharvests for the shark fisheries, and adaptive management measures, such as flexible opening dates for the fishing seasons and inseason adjustments to shark trip limits, which provide management flexibility in furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas.

On September 11, 2014 (79 FR 54252), NMFS published a rule proposing the 2015 opening dates for the Atlantic commercial shark fisheries and quotas, based on shark landings information as of August 15, 2014. The September 2014 proposed rule contains details regarding the proposal and how the quotas were calculated that are not repeated here. The comment period on the proposed rule ended on October 14, 2014.

During the comment period, NMFS received more than 50 written and oral comments on the proposed rule. Those comments, along with the Agency's responses, are summarized below. As

further detailed in the Response to Comments section, after considering all the comments, NMFS is opening the fishing seasons for all shark management groups except the aggregated LCS and hammerhead shark management groups in the Atlantic region on January 1, 2015, as proposed in the September 11, 2014, proposed rule. The aggregated LCS and hammerhead shark management groups in the Atlantic region will open on July 1, 2015, which is a change from the proposed rule. Also, some of the quotas have changed since the proposed rule, based on updated landings information as of October 15, 2014.

This final rule serves as notification of the 2015 opening dates of the Atlantic commercial shark fisheries and 2015 quotas, based on shark landings updated as of October 15, 2014, pursuant to the "Opening Fishing Season" criteria at § 635.27(b)(1)(i) through (b)(1)(x). This action does not change the annual base commercial quotas established under Amendments 2, 3, and 5a to the 2006 Consolidated HMS FMP for any shark management group. Any such changes would be performed through a separate action. Rather, this action adjusts the annual base commercial quotas for 2015 based on over- and/or underharvests that occurred in 2014 and previous fishing seasons, consistent with existing regulations.

Response to Comments

NMFS received comments on the proposed rule from more than 50 fishermen, dealers, and other interested parties. All written comments can be found at *http://www.regulations.gov/* by searching for RIN 0648–XC276.

A. LCS Management Group Comments

Comment 1: NMFS received more than 30 comments regarding the proposed opening date for the aggregated LCS and hammerhead management groups in the Atlantic region. Some fishermen from the southern portion of the Atlantic region and other constituents supported the proposed opening date of June 1. The comments from some of the fishermen in this area noted they preferred the opportunity to fish for sharks in October through December because they participate in other, non-shark fisheries at the beginning of the year and prefer to save the shark quota for later in the year, when there are no other fisheries open in Florida. Other constituents in the southern portion of the Atlantic region said they preferred a later opening date to reduce the fishing pressure on sharks. Other fishermen from the southern portion of the Atlantic region requested a January 1 opening date due to shark depredation and discard issues these fishermen encounter while targeting other, non-shark species. These commenters feel that the delayed opening in 2014 negatively affected their fishing effort for non-shark species and increased shark discards because the delayed opening date prevented sharks from being landed. Both the Atlantic States Marine Fisheries Commission (ASMFC) and North Carolina Division of Marine Fisheries (NCDMR) requested a July 1 opening date and expressed concerns that the proposed June 1 opening date would not provide equitable fishing opportunities for fishermen located in the northern portion of the Atlantic region. On October 30, 2014, the ASMFC Shark Board voted on and approved opening the Atlantic aggregated LCS state-water fishery on July 1, 2015. The Board also voted on and approved opening the state-water shark fishery for the other management groups on the date announced in this final rule.

Response: NMFS evaluates several "Opening Fishing Season" criteria (§ 635.27(b)(3)) when choosing an opening date. These criteria include: (1) The available annual quotas for the current fishing season for the different species/management groups based on any over- and/or underharvests experienced during the previous commercial shark fishing seasons; (2) estimated season length based on available quota(s) and average weekly catch rates of different species and/or management group from the previous years; (3) length of the season for the different species and/or management group in the previous years and whether fishermen were able to participate in the fishery in those years; (4) variations in seasonal distribution, abundance, or migratory patterns of the different species/management groups based on scientific and fishery information; (5) effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the different species and/or management quotas; (6) effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; and/or (7) effects of a delayed opening with regard to fishing opportunities in other fisheries.

After evaluating the opening fishing season criteria and reviewing the public comments, NMFS has determined that changing the opening date from June 1 to July 1 would better promote equitable fishing opportunities in the Atlantic region, while still allowing for the full quota to be harvested. This date should allow fishermen in the northern portion of the Atlantic region the opportunity to fish starting in July, while still providing fishermen in the southern portion of the Atlantic region fishing opportunities later in the year, which might not be available with a June 1 opening date. After reviewing the landings information received as of October 15, 2014, and considering the first, second, fourth, fifth, and sixth criteria listed above, NMFS projected that under current harvest rates, the 2014 fishing season for Atlantic aggregated LCS and hammerhead sharks may need to be closed before the end of the year. Because the 2014 fishing season opened June 1 with similar quotas to those being adopted for the 2015 fishing season, NMFS believes this current season is an appropriate year to use as a proxy for 2015. Based on fishing rates from 2014, a July 1 opening date in 2015 would provide potential fishing opportunities later in the year, without significantly reducing potential fishing opportunities earlier in the year.

Regarding the comments from some fishermen from the southern portion of the Atlantic region who supported the proposed June 1 opening for the Atlantic aggregated LCS and hammerhead shark fisheries to ensure the potential fishing opportunities later in the year (October through December), changing the opening date to July 1 is consistent with the intent noted by these fishermen, and is based in part on these comments. As discussed above, opening the fishing season on July 1, 2015, rather than June 1, 2015, would better ensure fishing opportunities later in the year.

Regarding the comments from other constituents who supported the proposed opening date of June 1 to reduce fishing pressure on sharks, a later opening date would reduce fishing pressure on sharks during part of the year; however, that fishing pressure would still occur during other parts of the year. NMFS is unaware of any science specific to the shark fishery as a whole that indicates fishing pressure during one part of the year is more harmful than fishing pressure during another part of the year. Furthermore, as noted below, while fishermen may not be fishing for sharks when the season is closed, fishing pressure on sharks still occurs, as sharks are still caught and discarded during closed seasons. These factors are taken into account in establishing rebuilding plans for the stock and commercial fishing quotas. NMFS establishes commercial fishing quotas based on the best available

science, in order to rebuild overfished fisheries, prevent overfishing, and achieve optimum yield. Through the stock assessments for these species, the current quotas and fishing pressure have been determined to prevent overfishing and rebuild overfished stocks.

Regarding the comments from fishermen from the southern portion of the Atlantic region who requested an opening date of January 1 for the Atlantic aggregated LCS and hammerhead shark fisheries due to the depredation of non-shark target catch by sharks, NMFS agrees that fishermen who catch sharks incidental to fishing for other, non-shark species would need to discard sharks at the beginning of the year if the shark fishing season is not yet open. However, opening the Atlantic aggregated LCS and hammerhead shark fisheries on January 1 would not provide equitable fishing opportunities throughout the region. Fishermen in the southern portion of the Atlantic region could harvest a large amount of the quota before the sharks migrate into the northern portion of the Atlantic region. Additionally, regardless of when the fishing season opens, fishermen who catch sharks when the fishing season is closed would need to discard sharks that are caught incidental to other fishing activities. Thus, opening early in the year likely would mean that fishermen who fish later in the year (when the shark fishery would likely be closed) would need to discard any sharks caught. These potential discards from fishing for other species when the shark season is closed were accounted for when establishing the base quotas and are considered during stock assessments.

Regarding the requests by ASMFC and NCDMR to delay the opening of the aggregated LCS and hammerhead shark management groups in the Atlantic region until July 1 to allow equitable fishing opportunities given the migration of sharks along the coast throughout the year, as discussed above, NMFS has determined that opening the fisheries later in the year could provide more equitable fishing opportunities across the entire Atlantic region, without negative ecological impacts on shark stocks. The July 1 opening date voted on and approved by the ASMFC Shark Board for the Atlantic aggregated LCS state-water fishery is consistent with the opening date NMFS is establishing in this final rule.

Comment 2: Regarding the proposed opening date for the blacktip shark, aggregated LCS, and hammerhead shark management groups in the Gulf of Mexico region, all commenters supported the proposed opening date of January 1. NMFS also received mixed comments regarding the carry forward of the 2014 quota underharvest to the 2015 fishing season. Some commenters supported the carry forward of the underharvested blacktip shark quota, since the management group is not overfished and no overfishing is occurring, while other commenters requested that NMFS not increase the blacktip shark fishing quota as a result of the underharvest due to concerns about overfishing, illegal fishing, and discards of shark species.

Response: Taking into consideration the "Opening Fishing Season" criteria (§ 635.27(b)(3)) and general support of the proposed opening date, NMFS has determined that keeping the proposed opening date of January 1 for the blacktip shark, aggregated LCS, and hammerhead shark management groups in the Gulf of Mexico region promotes equitable fishing opportunities throughout this region. In reaching this determination, NMFS considered, in particular, the length of the season for the different species and/or management groups in 2013 and 2014 and whether fishermen were able to participate in the fishery in those years (§ 635.27(b)(3)(iii)).

Regarding the comments relating to carrying forward the 2014 quota underharvest to the 2015 fishing season, current regulations state that shark stocks that are not overfished and have no overfishing occurring may have any underharvest carried forward in the following year, up to 50 percent of the base quota (§ 635.27(b)(2)). The Gulf of Mexico blacktip shark management group is not overfished and not experiencing overfishing (77 FR 70552; November 26, 2012). As such, under the current regulations, available underharvest (up to 50 percent of the base quota) from the 2014 fishing season can be applied to the 2015 quota, and NMFS will do so.

In the final rule for Amendment 5a to the 2006 Consolidated HMS FMP (78 FR 40318, July 3, 2013), NMFS implemented a total allowable catch (TAC) for blacktip sharks in the Gulf of Mexico region and also established a commercial quota for this species, based on current levels of mortality. When establishing the TAC, all sources of mortality were accounted for as described in Amendment 5a to the 2006 Consolidated HMS FMP. Given this, even carrying forward the underharvest, the TAC is not likely to be exceeded because the resulting mortality and any discards were already taken into account. In addition, as described in Amendment 5a to the 2006 Consolidated HMS FMP, the Gulf of Mexico blacktip shark stock assessment noted that current removal rates are sustainable, and subsequent projections, which were completed outside the SEDAR process, indicate that current removals are unlikely to lead to an overfished fish stock by 2040. The projections also indicate that higher levels of removal, like carrying forward the underharvest, are unlikely to result in an overfished stock.

Comment 3: NMFS received a comment from the ASMFC in opposition to changing the retention limits throughout the season. Specifically, ASMFC noted that the current LCS retention limit has eliminated the LCS target shark fishery and that fishermen use the LCS retention limit to supplement total trip catch when fishing for other species (*e.g.*, tilefish, Spanish mackerel, swordfish, etc.). ASMFC is concerned that any adjustment to the trip limit could reduce these fishermen's economic success.

Response: NMFS did not discuss retention limits for the aggregated LCS and hammerhead shark management groups in the proposed rule for the 2015 Atlantic shark commercial fishing season. NMFS did indicate that the Agency could use the adaptive management measures that were finalized in the 2011 shark season rule (75 FR 76302; December 8, 2010), which includes adjusting, via inseason actions, the retention limit for aggregated LCS and hammerhead sharks. These adaptive management measures were finalized in 2011 to provide fishermen more equitable access to the relevant shark resource throughout their applicable region by slowing a fishery down, as needed, if the quota is being harvested too quickly. For example, if fishermen in one part of a region were catching sharks quickly and might fully harvest the available quota before the sharks were likely to migrate to other parts of the region, NMFS might reduce the trip limit for a short period of time in order to ensure all fishermen throughout the region had an opportunity to harvest sharks. Before making inseason adjustments, NMFS would consider the criteria listed at § 635.24(a)(8). To date, NMFS has not used these adaptive management measures, but may in the future, depending on catch rates and available quota.

Comment 4: NMFS received comments on the proposed quotas for the hammerhead shark management groups. Commenters requested NMFS to lower the hammerhead shark management group quotas because the quotas could have been underharvested

due to the small population and/or low demand for harvesting. Commenters suggest that NMFS be conservative with the proposed quota, determine the reason for the underharvest, and account for illegal or undocumented harvest of hammerhead sharks.

Response: NMFS is setting the base quota as the 2015 quota for the hammerhead shark management groups, and adjustments to the base quota for anything other than for over- and underharvest are beyond the scope of this rulemaking. Based on the results of a 2009 stock assessment, NMFS determined that scalloped hammerhead sharks were overfished and experiencing overfishing (76 FR 23794, April 28, 2011). In Amendment 5a to the 2006 Consolidated HMS FMP (78 FR 40318, July 3, 2013), NMFS implemented a TAC for all of the hammerhead shark stocks (scalloped, great, and smooth) that would allow rebuilding of the scalloped hammerhead shark stock within 10 years. In addition, NMFS implemented quota linkages for the aggregated LCS and hammerhead shark management groups in Amendment 5a to the 2006 Consolidated HMS FMP. Under these linkages, if either management group reaches or is projected to reach its quota, NMFS would close both management groups to ensure discards do not occur. In 2013, which was the first year with a separate hammerhead shark quota, the hammerhead shark landings did not reach the quota due to the quota linkage with the aggregated LCS management group. Once landings of the aggregated LCS management group reached 80 percent, NMFS closed both the aggregated LCS and hammerhead shark management groups. Thus, NMFS believes the quota linkage has been the reason the hammerhead shark quota is not fully harvested and does not believe that the lack of hammerhead shark landings raises additional concerns about the status of the stock.

Regarding the comment to account for illegal or undocumented harvest of hammerhead sharks, NMFS is aware of illegal or undocumented harvest of shark species, including many SCS and blacktip sharks, along with a few hammerhead sharks, in the Gulf of Mexico. NOAA and the U.S. Coast Guard are actively working to address illegal fishing vessel incursions into U.S. waters, and, as appropriate, NMFS includes estimates of illegal catches from the border of Texas and Mexico in stock assessments to ensure all sources of mortality are considered. Illegal fishing is of high concern to NMFS, as this capture undermines management and rebuilding strategies, makes stock assessments and capture data less reliable for science, and hurts U.S. fishermen who rely on these shark species, because when NMFS includes the illegal landings in the stock assessments, the additional mortality could lower the commercial quota for U.S. fishermen.

B. General Comments

Comment 5: NMFS received a comment that there has been an increase in the number of all species of sharks (especially juvenile sharks) in the coastal waters of South Carolina and the commenter requested NMFS to conduct research in the area.

Response: This comment is outside the scope of this rulemaking, which establishes commercial quotas for the 2015 shark season based on over- and underharvest in 2014 and previous fishing seasons and sets the opening dates for each management group. To the extent the commenter is requesting research on shark numbers and habitats, that research is regularly done, including off South Carolina, as part of the stock assessments of shark species. Management of the Atlantic shark fisheries is based on the best available science to rebuild overfished or maintain shark stocks and prevent overfishing. NMFS continues to study essential fish habitats (EFH) for HMS, including off South Carolina, to refine our understanding of important habitat areas for HMS. The Magnuson-Stevens Act defines EFH as habitat necessary for spawning, breeding, feeding, and growth to maturity. The Magnuson-Stevens Act requires the identification of EFH in FMPs, and towards that end, NMFS has funded two cooperative survey programs designed to further delineate shark nursery habitats in the Atlantic and Gulf of Mexico. In the Atlantic, the Cooperative Atlantic States Shark Pupping and Nursery (COASTSPAN) Survey is designed to assess the geographical and seasonal extent of shark nursery habitat, determine which shark species use these areas, and gauge the relative importance of these coastal habitats in order to provide information that can then be used in EFH determinations. In South Carolina, COASTSPAN sampling took place in both nearshore and estuarine waters, including: Bulls Bay, Charleston Harbor, North Edisto, Port Royal Sound, St. Helena Sound, and Winyah Bay. Thirteen species of sharks were captured, the most abundant of which was Atlantic sharpnose. The findings of COASTSPAN continue to highlight the importance of South Carolina estuarine and nearshore waters as nursery habitat for many SCS and LCS, and indicate the extensive use of these waters as habitat for several adult SCS.

Comment 6: NMFS received comments to stop all shark fishing.

Response: This comment is outside the scope of this rulemaking, because the purpose of this rulemaking is to adjust quotas for the 2015 shark seasons based on over- and underharvests from the previous years and set opening dates for the 2015 shark seasons. Management of the Atlantic shark fisheries is based on the best available science to maintain or rebuild overfished shark stocks. The final rule does not reanalyze the overall management measures for sharks, which were analyzed in Amendments 2, 3, and 5a to the 2006 Consolidated HMS FMP. NMFS is considering further shark management measures, including those to rebuild shark stocks or prevent overfishing, in other upcoming rulemakings, such as Amendments 5b and 6 to the 2006 Consolidated HMS FMP.

Comment 7: NMFS received comments stating that there are still ongoing issues with the survival of Central and Southwest Atlantic Distinct Population Segment (DPS) scalloped hammerhead sharks due to the extremely high post-release mortality rate of the species. Commenters request that NMFS hold more catch and release and identification workshops to ensure the future of these sharks.

Response: This comment is outside the scope of this rulemaking, because the purpose of this rulemaking is to adjust quotas for the 2015 shark seasons based on over- and underharvests from the previous years and set opening dates for the 2015 shark seasons. Management of the Atlantic shark fisheries is based on the best available science to maintain or rebuild overfished shark stocks.

On July 3, 2014, NMFS issued the final determination to list the Central and Southwest Atlantic Distinct DPS of scalloped hammerhead shark as threatened species pursuant to the Endangered Species Act (ESA) (79 FR 38214). The Central and Southwest Atlantic DPS of scalloped hammerhead sharks occurs within the management area of Atlantic HMS commercial and recreational fisheries that are managed by NMFS's Office of Sustainable Fisheries, HMS Management Division. The HMS Management Division manages Atlantic HMS in U.S. Atlantic and Gulf of Mexico waters, including the U.S. Caribbean territories of Puerto Rico and the U.S. Virgin Islands. The HMS Management Division has reinitiated consultation with the NMFS Office of Protected Resources to

consider if further actions regarding scalloped hammerhead sharks may be needed, including holding more catch and release and identification workshops in these areas.

Comment 8: NMFS received comments that some constituents strongly disagree with laws that allow federal commercial vessels to keep sharks that are illegal to land in state waters. Some constituents also recommended establishing commercial size limits for sharks.

Response: This comment is outside the scope of this rulemaking. The purpose of this rulemaking is to adjust quotas for the 2015 shark season based on over- and underharvests from the previous years and set opening dates for the 2015 shark season. Management of the Atlantic shark fisheries is based on the best available science to maintain or rebuild overfished shark stocks. The final rule does not reanalyze the overall management measures for sharks, which were analyzed in Amendments 2, 3, and 5a to the 2006 Consolidated HMS FMP. NMFS is considering further shark management measures in other upcoming rulemakings, such as Amendments 5b and 6 to the 2006 Consolidated HMS FMP.

If fishermen are harvesting Atlantic sharks in federal waters, they are required to hold an HMS permit. As a condition of the federal permit, HMS permit holders must abide by all applicable federal regulations, regardless of where fishing occurs, including in state waters. However, when fishing in the waters of a state with more restrictive regulations, the more restrictive state regulations apply (§ 635.4(a)(10)) to those holders of Federal HMS permits.

Regarding the establishment of commercial size limits for sharks, NMFS has considered this several times and may consider it again in the future, depending on new data. In the 1999 Atlantic Tunas, Swordfish, and Sharks FMP, NMFS finalized a number of measures, including a commercial minimum size limit of 4.5 feet fork length for ridgeback sharks. This minimum size was never implemented, due to a court settlement, and in Amendment 1 to that 1999 FMP (68 FR 74746, December 24, 2003), NMFS determined that any conservation benefits gained by a commercial minimum size may be offset by increases in regulatory discards and associated post-release mortality, given that commercial fishermen may be unable to avoid mixed size aggregations of some shark species. Also, regulatory discards do not count towards the trip limit. Thus, fishermen could catch a full set of undersized sharks, which would be discarded, and then the fishermen would set more gear, potentially causing more discards. Additionally, finding an appropriate minimum size is difficult because shark species mature at different ages and sizes and because commercial fishermen remove the heads of the sharks while dressing the carcass. Sharks are usually measured from the tip of their nose to either the fork of their tail (fork length) or the tip of their tail (total length). Thus, removing the head of the shark, while critical in maintaining the quality of meat necessary to sell the product, would cause enforcement and other difficulties if there was a commercial minimum size that depended on either fork length or total length. Despite these difficulties, most recently, NMFS considered a commercial minimum size for shortfin mako sharks under Amendment 3 to the 2006 Consolidated HMS FMP (75 FR 30484; June 1, 2010). Based on the fisheries logbook data, NMFS assumed that some shortfin mako sharks were dead at haulback; therefore, imposing a size limit could lead to an increase in dead discards. Thus, NMFS did not implement a commercial size for the species, but may consider this option again in the future depending on new data.

Comment 9: NMFS received comments that the Carolina hammerhead shark species needs more protection, as the population size is unknown and could easily be mistaken for the scalloped hammerhead sharks.

Response: This comment is outside the scope of this rulemaking. The purpose of this rulemaking is to adjust quotas for the 2015 shark seasons based on over- and underharvests from the previous years and set opening dates for the 2015 shark seasons. Management of the Atlantic shark fisheries is based on the best available science to maintain or rebuild overfished shark stocks. The final rule does not reanalyze the overall management measures for sharks, which were analyzed in Amendments 2, 3, and 5a to the 2006 Consolidated HMS FMP. The Carolina hammerhead shark species is not currently included in the hammerhead shark management groups, but NMFS may consider including it in the future.

Comment 10: NMFS received several comments from the NCDMF requesting the removal of the non-blacknose SCS and blacknose shark quota linkage, and expressing concerns that NMFS is not properly accounting for the different reported landing conditions between states in the Atlantic region.

Response: As described above, quota linkages are designed to prevent incidental mortality of one species from occurring in another shark fishery after the species' management group has closed. Also, in the case of the blacknose and non-blacknose SCS quota linkage, NMFS finalized the linkage as part of Amendment 3 to the 2006 Consolidated HMS FMP specifically because fishermen indicated, and NMFS agreed, that fishermen could target non-blacknose SCS without catching blacknose sharks. In Amendment 5a to the 2006 Consolidated HMS FMP, NMFS split the blacknose and non-blacknose quotas into two regions and again considered the necessity of the linkage. In each region, NMFS determined the linkage was necessary to rebuild blacknose sharks, and therefore the blacknose shark quota is linked to the non-blacknose SCS quota. If blacknose shark landings in one region trigger a quota closure, the non-blacknose SCS management group in that region would close as well. The quota linkage prevents blacknose shark mortality in the directed non-blacknose SCS fishery after the blacknose shark quota has been filled. Preventing this mortality is an important part of the rebuilding plan for blacknose sharks. In Amendment 6 to the 2006 Consolidated HMS FMP, NMFS will examine the quota linkage issue, along with considering other options that could address NCDMF's concerns.

Regarding the comment that NMFS is not properly accounting for the different reported landing conditions between states in the Atlantic region, the HMS Advisory Panel discussed this issue at the September 2014 HMS Advisory Panel meeting in Silver Spring, MD. Atlantic Coastal Cooperative Statistics Program (ACCSP) dealer reports indicate differences in how fishermen land sharks. Dealers in some states report dressed sharks with carcass gutted, head on, and tail on, while others report dressed sharks with carcass gutted, head off, and tail off (*i.e.*, shark cores). However, observer data and port agents indicate that sharks are landed with their heads off regardless of region. Additionally, dealers cannot indicate "heads on" in electronic dealer reporting forms. Because observer observations suggest that sharks are landed with "heads off," and since all types of dressed shark carcasses are included in landings that are counted towards the commercial quotas, NMFS does not believe this concern affects the landings estimates used for this rule.

Changes From the Proposed Rule

NMFS made three changes to the proposed rule, as described below.

1. NMFS changed the final Gulf of Mexico blacktip shark (328.6 mt dw) quota based on updated landings through October 15, 2014. In the proposed rule, which was based on data available through August 15, 2014, the 2015 adjusted annual quota for Gulf of Mexico blacktip shark was proposed to be 330.0 mt dw (727,465 lb dw), based on an estimated 2014 underharvest of 73.4 mt dw (161,765 lb dw). Based on updated landings data through October 15, 2014, the Gulf of Mexico blacktip shark management group was underharvested by 72.0 mt dw. Therefore, the 2015 adjusted annual quota for Gulf of Mexico blacktip shark is 328.6 mt dw (724,302 lb dw) (256.6 mt dw annual base quota + 72.0 mt dw 2014 underharvest = 328.6 mt dw 2015 adjusted annual quota). Landings information beyond October 15, 2014, was not available while NMFS was writing this rule. This final rule used the most recent available information to allow NMFS to properly analyze the fishery and open the fishery as proposed on January 1, 2015. Any landings between October 15 and December 31, 2014, will be accounted for in the 2016 shark fisheries quotas, as appropriate.

2. NMFS changed the final Gulf of Mexico aggregated LCS (156.5 mt dw) quota based on updated landings through October 15, 2014. In the proposed rule, the quota for the Gulf of Mexico aggregated LCS management group was proposed to be 156.1 mt dw (344,271 lb dw), based on an estimated 2014 overharvest of 1.3 mt dw (2,638 lb dw) and a previously unaccounted for 2013 overharvest of 0.1 mt dw (408 lb dw). However, based on the updated landings data, NMFS found that the 2014 quota was overharvested by 2.3 mt dw (5,095 lb dw), and NMFS also determined that the 2013 landings were overestimated by 1.3 mt dw (2,758 lb dw). Thus, NMFS will reduce the 2015 base annual quota by 1.0 mt dw (2,337 lb dw), based on the most recent estimates of the 2013 and 2014 landings. Therefore, the 2015 adjusted annual quota for Gulf of Mexico aggregated LCS is 156.5 mt dw (344,980 lb dw) (157.5 mt dw annual base quota − 2.3 mt dw 2014 overharvest + 1.3 mt dw 2013 overestimated landings = 156.5 mt dw 2015 adjusted annual quota). As described above, landings information beyond October 15, 2014, was not available while NMFS was writing this rule. This final rule used the most recent available information to allow NMFS to properly analyze the fishery and open the fishery on January 1, 2015. Any landings between October 15 and December 31, 2014, will be accounted for in the 2016 shark fisheries quotas, as appropriate.

3. NMFS changed the opening date for the aggregated LCS and hammerhead shark management groups in the Atlantic region from June 1, 2015, to July 1, 2015. As explained above, NMFS changed the opening date after considering the "Opening Fishing Season" criteria (§ 635.27(b)(3)), public comment, and the 2014 landings data in order to promote more equitable fishing opportunities in the Atlantic region.

2015 Annual Quotas

This final rule adjusts the 2015 commercial quotas due to over- and/or underharvests in 2014 and previous fishing seasons, based on landings data through October 15, 2014. The 2015 annual quotas by species and species group are summarized in Table 1. All dealer reports that are received by NMFS after October 15, 2014, will be used to adjust the 2016 quotas, if necessary. A description of the quota calculations is provided in the proposed rule and is not repeated here. Any changes are described in the "Changes from the Proposed Rule" section.

TABLE 1—2015 ANNUAL QUOTAS AND OPENING DATES FOR THE ATLANTIC SHARK FISHERIES

[All quotas and landings are dressed weight (dw), in metric tons (mt), unless specified otherwise]

Region	Management group	2014 annual quota (A)	Preliminary 2014 landings [1] (B)	Adjustments (C)	2015 Base annual quota (D)	2015 Final annual quota (D + C)	Season opening dates
Gulf of Mexico	Blacktip Sharks	274.3 mt dw (604,626 lb dw).	202.3 mt dw (446,024 lb dw).	72.0 mt dw (158,602 lb dw) [2].	256.6 mt dw (565,700 lb dw).	328.6 mt dw (724,302 lb dw).	January 1, 2015.
	Aggregated Large Coastal Sharks.	151.2 mt dw (333,828 lb dw).	153.7 mt dw (338,923 lb dw).	−1.0 mt dw (2,337 lb dw) [3].	157.5 mt dw (347,317 lb dw).	156.5 mt dw (344,980 lb dw).	
	Hammerhead Sharks.	25.3 mt dw (55,722 lb dw).	14.4 mt dw (31,733 lb dw).		25.3 mt dw (55,722 lb dw).	25.3 mt dw (55,722 lb dw).	
	Non-Blacknose Small Coastal Sharks.	68.3 mt dw (150,476 lb dw).	66.8 mt dw (147,366 lb dw).		45.5 mt dw (100,317 lb dw).	45.5mt dw (100,317 lb dw).	
	Blacknose Sharks	1.8 mt dw (4,076 lb dw).	1.4 mt dw (3,149 lb dw).	−0.2 mt dw (−437 lb dw) [4].	2.0 mt dw (4,513 lb dw).	1.8 mt dw (4,076 lb dw).	
Atlantic	Aggregated Large Coastal Sharks.	168.9 mt dw (372,552 lb dw).	101.6 mt dw (224,098 lb dw).		168.9 mt dw (372,552 lb dw).	168.9 mt dw (372,552 lb dw).	July 1, 2015.
	Hammerhead Sharks.	27.1 mt dw (59,736 lb dw).	6.0 mt dw (13,223 lb dw).		27.1 mt dw (59,736 lb dw).	27.1 mt dw (59,736 lb dw).	
	Non-Blacknose Small Coastal Sharks.	264.1 mt dw (582,333 lb dw).	103.1 mt dw (227,202 lb dw).		176.1 mt dw (388,222 lb dw).	176.1 mt dw (388,222 lb dw).	January 1, 2015.
	Blacknose Sharks	17.5 mt dw (38,638 lb dw).	17.4 mt dw (38,437 lb dw).	−0.5 mt dw (−1,111 lb dw) [4].	18.0 mt dw (39,749 lb dw).	17.5 mt dw (38,638 lb dw).	
No regional quotas	Non-Sandbar LCS Research.	50.0 mt dw (110,230 lb dw).	14.3 mt dw (31,543 lb dw).		50.0 mt dw (110,230 lb dw).	50.0 mt dw (110,230 lb dw).	January 1, 2015.
	Sandbar Shark Research.	116.6 mt dw (257,056 lb dw).	37.5 mt dw (82,737 lb dw).		116.6 mt dw (257,056 lb dw).	116.6 mt dw (257,056 lb dw).	
	Blue Sharks	273.0 mt dw (601,856 lb dw).	7.8 mt dw (17,157 lb dw).		273.0 mt dw (601,856 lb dw).	273.0 mt dw (601,856 lb dw).	
	Porbeagle Sharks	1.3 mt dw (2,874 lb dw).	0.5 mt dw (1,035 lb dw).		1.7 mt dw (3,748 lb dw).	1.7 mt dw (3,748 lb dw).	

TABLE 1—2015 ANNUAL QUOTAS AND OPENING DATES FOR THE ATLANTIC SHARK FISHERIES—Continued

[All quotas and landings are dressed weight (dw), in metric tons (mt), unless specified otherwise]

Region	Management group	2014 annual quota (A)	Preliminary 2014 landings [1] (B)	Adjustments (C)	2015 Base annual quota (D)	2015 Final annual quota (D + C)	Season opening dates
	Pelagic Sharks Other Than Porbeagle or Blue.	488 mt dw (1,075,856 lb dw).	126.7 mt dw (279,276 lb dw).	.....	488.0 mt dw (1,075,856 lb dw).	488.0 mt dw (1,075,856 lb dw).	

[1] Landings are from January 1, 2014, through October 15, 2014, and are subject to change.

[2] This adjustment accounts for underharvest in 2014. Therefore, the Gulf of Mexico blacktip shark adjusted quota will be 328.6 mt dw for the 2015 fishing season.

[3] This adjustment accounts for overharvests from 2013 and 2014. In the final rule establishing the 2014 quotas (78 FR 70500; November 26, 2013), the 2013 Gulf of Mexico aggregated LCS quota was overharvested by 6.2 mt dw (13,489 lb dw). After the final rule establishing the 2014 quotas published, late dealer reports indicated the quota was overharvested by an additional 0.1 mt dw (408 lb dw), for a total overharvest of 6.3 mt dw (13,897 lb dw). Recently, NMFS determined that the 2014 final rule overestimated the overharvest from 2013 by 1.3 mt dw (2,758 lb dw). In 2014, the Gulf of Mexico aggregated LCS quota was overharvested by 2.3 mt dw (5,095 lb dw). Therefore, this final rule reduces the Gulf of Mexico aggregated LCS quota by 1.0 mt dw (2.3 mt dw overharvest in 2014—1.3 mt dw overestimated from 2013). NMFS will adjust the 2015 base annual quota based on the updated overharvest estimates from 2013 and 2014.

[4] This adjustment accounts for overharvest in 2012. After the final rule establishing the 2012 quotas published, late dealer reports indicated the blacknose shark quota was overharvested by 3.5 mt dw (7,742 lb dw). In the final rule establishing the 2014 quotas, NMFS implemented a 5-year adjustment of the overharvest amount by the percentage of landings in 2012. Thus, NMFS will reduce the Gulf of Mexico blacknose shark quota by 0.2 mt dw (437 lb dw) and the Atlantic blacknose shark quota by 0.5 mt dw (1,111 lb dw) each year from 2014 through 2018. NMFS will reduce the 2015 base annual quota based on overharvest from 2012.

Fishing Season Notification for the 2015 Atlantic Commercial Shark Fishing Seasons

Based on the seven "Opening Fishing Season" criteria listed in § 635.27(b)(3), the 2015 Atlantic commercial shark fishing seasons for the Gulf of Mexico blacktip shark, Gulf of Mexico aggregated LCS, Gulf of Mexico hammerhead shark, non-blacknose shark SCS, blacknose shark, sandbar shark, blue shark, porbeagle shark, and pelagic shark (other than porbeagle or blue sharks) management groups in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, will open on January 1, 2015. The aggregated LCS and hammerhead shark management groups in the Atlantic region will open on July 1, 2015.

All of the shark management groups would remain open until December 31, 2015, or until NMFS determines that the fishing season landings for any shark management group has reached, or is projected to reach, 80 percent of the available quota. Additionally, NMFS has established non-linked and linked quotas; linked quotas are explicitly designed to concurrently close multiple shark management groups that are caught together to prevent incidental catch mortality from exceeding the total allowable catch. At this time, Gulf of Mexico blacktip and pelagic sharks have non-linked quotas and can close without affecting any other management groups. Consistent with § 635.28(b)(4), NMFS may close the Gulf of Mexico blacktip shark management group before landings reach, or are expected to reach, 80 percent of the quota. The linked quotas of the species and/or management groups are Atlantic hammerhead sharks and Atlantic aggregated LCS; Gulf of Mexico hammerhead sharks and Gulf of Mexico aggregated LCS; Atlantic blacknose and Atlantic non-blacknose SCS; and Gulf of Mexico blacknose and Gulf of Mexico non-blacknose SCS. NMFS will file for publication with the Office of the Federal Register a notice of closure for that shark species, shark management group including any linked quotas, and/or region that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until NMFS announces, via the publication of a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fisheries for the shark species or management group are closed, even across fishing years. Before taking any inseason action, NMFS would consider the criteria listed at § 635.28(b)(4).

Classification

The NMFS Assistant Administrator has determined that the final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the MSA, and other applicable law.

This final rule is exempt from review under Executive Order 12866.

In compliance with section 604 of the Regulatory Flexibility Act (RFA), NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) for this final rule, which analyzed the adjustments to the Gulf of Mexico blacktip shark, Gulf of Mexico aggregated LCS, and blacknose shark management group quotas based on over- and/or underharvests from the previous fishing season(s). The FRFA analyzes the anticipated economic impacts of the final actions and any significant economic impacts on small entities. The FRFA is below.

Section 604(a)(1) of the Regulatory Flexibility Act requires an explanation of the purpose of the rulemaking. The purpose of this final rulemaking is, consistent with the Magnuson-Stevens Act, to adjust the 2015 annual quotas for all Atlantic and Gulf of Mexico shark management groups based on over- and/or underharvests from the previous fishing year(s), where allowable. These adjustments are being implemented according to the regulations implemented for the 2006 Consolidated HMS FMP and its amendments.

In this rulemaking, NMFS expects few, if any, economic impacts to fishermen other than those already analyzed in the 2006 Consolidated HMS FMP and its amendments. While there may be some direct negative economic impacts associated with the opening dates for fishermen in certain areas, there could also be positive effects for other fishermen in the region. The opening dates were chosen to allow for an equitable distribution of the available quotas among all fishermen across regions and states, to the extent practicable.

Section 604(a)(2) of the Regulatory Flexibility Act requires NMFS to summarize significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis (IRFA), provide a summary of NMFS' assessment of such issues, and provide a statement of any changes made as a result of the comments. The IRFA was done as part of the proposed rule for the 2014 Atlantic Commercial Shark Season Specifications. NMFS did not receive any comments specific to the IRFA. However, NMFS received comments related to the overall economic impacts of the proposed rule, and those comments and NMFS' assessment of and response to them are summarized above (see Comments 1, 2, 3, 4, and 10 above). As described in the responses to those comments relating to the season

opening dates, consistent with § 635.27(b)(3), the opening date for the Gulf of Mexico blacktip shark, Gulf of Mexico aggregated LCS, Gulf of Mexico hammerhead shark, non-blacknose shark SCS, blacknose shark, sandbar shark, blue shark, porbeagle shark, and pelagic shark (other than porbeagle or blue sharks) management groups will be implemented as proposed, while the opening date for the aggregated LCS and hammerhead shark management groups in the Atlantic region will be delayed until July 1, 2015.

Section 604(a)(3) requires NMFS to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesters. On June 12, 2014, the SBA issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33467; June 12, 2014). The rule increased the size standard from $19.0 to $20.5 million for finfish fishing, from $5 to $5.5 million for shellfish fishing, and from $7.0 million to $7.5 million for other marine fishing, for-hire businesses, and marinas. Id. at 33656, 33660, 33666. NMFS has reviewed the analyses prepared for this action in light of the new size standards. Under the former, lower size standards, all entities subject to this action were considered small entities, thus they all would continue to be considered small under the new standards. NMFS does not believe that the new size standards affect analyses prepared for this action. The final rule would apply to the approximately 206 directed commercial shark permit holders (127 in the Atlantic and 79 in the Gulf of Mexico regions), 258 incidental commercial shark permit holders (158 in the Atlantic and 100 in the Gulf of Mexico regions), and 96 commercial shark dealers (68 in the Atlantic and 28 in the Gulf of Mexico regions) as of October 2014.

Section 604(a)(4) of the Regulatory Flexibility Act requires NMFS to describe the projected reporting, recordkeeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which would be subject to the requirements of the report or record. None of the actions in this final rule would result in additional reporting, recordkeeping, or compliance requirements beyond those already analyzed in Amendments 2, 3, and 5a to the 2006 Consolidated HMS FMP.

Section 604(a)(5) of the Regulatory Flexibility Act requires NMFS to describe the steps taken to minimize the economic impact on small entities, consistent with the stated objectives of applicable statutes. Additionally, the Regulatory Flexibility Act (5 U.S.C. 603(c)(1)-(4)) lists four general categories of "significant" alternatives that would assist an agency in the development of significant alternatives that would accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the rule on small entities. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule, or any part thereof, for small entities.

In order to meet the objectives of this rule, consistent with the Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities. This rulemaking does not establish management measures to be implemented, but rather implements previously adopted and analyzed measures as adjustments, as specified in Amendments 2, 3, and 5a to the 2006 Consolidated HMS FMP and the EA for the 2011 shark quota specifications rule. Thus, in this rulemaking, NMFS adjusted the base quotas established and analyzed in Amendments 2, 3, and 5a to the 2006 Consolidated HMS FMP by subtracting the underharvest or adding the overharvest, as specified and allowable in existing regulations. Under current regulations (§ 635.27(b)(2)), all shark fisheries close on December 31 of each year, or when NMFS determines that the fishing season landings for any shark management group has reached, or is projected to reach, 80 percent of the available quota, and do not open until NMFS takes action, such as this rulemaking to re-open the fisheries. Thus, not implementing these management measures would negatively affect shark fishermen and related small entities, such as dealers, and also would not provide management the flexibility in furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas.

Based on the 2013 ex-vessel price, fully harvesting the unadjusted 2015 Atlantic shark commercial baseline quotas could result in total fleet revenues of $4,671,260 (see Table 2). For the Gulf of Mexico blacktip shark management group, there would be a $94,606 gain in revenue to the regional fleet due to the adjustment for underharvest in 2014. The adjustment for the Gulf of Mexico aggregated LCS management group due to the overharvest in 2014 and the revised overharvest in 2013 would result in a $1,558 loss in revenue to the regional fleet. The adjustment for the blacknose shark management group due to the overharvest in 2012, which resulted in a 5-year quota reduction, would result in a $431 loss to the Gulf of Mexico blacknose shark management group and a $1,542 loss to the Atlantic blacknose shark management group.

TABLE 2—AVERAGE EX-VESSEL PRICES PER lb dw FOR EACH SHARK MANAGEMENT GROUP, 2013 *

[Year 2013]

Species	Region	Price
Aggregated LCS	Gulf of Mexico	$0.49
	Atlantic	0.81
Blacktip Shark	Gulf of Mexico	0.42
Hammerhead Shark	Gulf of Mexico	0.41
	Atlantic	0.64
LCS Research	Both	0.72
Sandbar Research	Both	0.78
Non-Blacknose SCS	Gulf of Mexico	0.32
	Atlantic	0.70
Blacknose Shark	Gulf of Mexico	0.81
	Atlantic	0.83

TABLE 2—AVERAGE EX-VESSEL PRICES PER lb dw FOR EACH SHARK MANAGEMENT GROUP, 2013*—Continued

[Year 2013]

Species	Region	Price
Blue shark	Both	0.28
Porbeagle shark	Both	**1.15
Other Pelagic sharks	Both	1.69
Shark Fins	Gulf of Mexico	11.16
	Atlantic	3.53
	Both	6.05

*The ex-vessel prices are based on 2013 dealer reports through December 31, 2013.
** Since the porbeagle shark management group was closed for 2013, there was no 2013 price data. Thus, NMFS used price data from 2012.

All of these changes in gross revenues are similar to the changes in gross revenues analyzed in the 2006 Consolidated HMS FMP and its amendments. The FRFAs for those amendments concluded that the economic impacts on these small entities, resulting from rules such as this one that establish the season openings via proposed and final rulemaking, were expected to be minimal. The 2006 Consolidated HMS FMP and its amendments, and the EA for the 2011 shark quota specifications rule, assumed NMFS would be preparing annual rulemakings and considering the previous FRFAs in the economic and other analyses at the time of the annual rulemakings.

For this final rule, NMFS reviewed the "Opening Fishing Season" criteria at § 635.27(b)(3)(i) through (b)(3)(vii) to determine when opening each fishery will provide equitable opportunities for fishermen while also considering the ecological needs of the different species. Over- and/or underharvests of 2014 and previous fishing season quotas were examined for the different species/complexes to determine the effects of the 2015 final quotas on fishermen across regional fishing areas. The potential season lengths and previous catch rates were examined to ensure that equitable fishing opportunities would be provided to fishermen. Lastly, NMFS examined the seasonal variation of the different species/complexes and the effects on fishing opportunities. In addition to these criteria, NMFS also considered other relevant factors, such as recent landings data and public comments, before arriving at the final opening dates for the 2015 Atlantic shark management groups. For the 2015 fishing season, NMFS is opening the fisheries for Gulf of Mexico blacktip shark, Gulf of Mexico aggregated LCS, Gulf of Mexico hammerhead shark, non-blacknose shark SCS, blacknose shark, sandbar shark, blue shark, porbeagle shark, and pelagic shark (other than porbeagle or blue sharks) management groups on January 1, 2015. The direct and indirect economic impacts will be neutral on a short- and long-term basis, because NMFS did not change the opening dates of these fisheries from the status quo.

NMFS is delaying the opening of the aggregated LCS and hammerhead shark management groups in the Atlantic region until July 1, 2014. This delay could result in short-term, direct, minor, adverse economic impacts, as fishermen and dealers in the southern portion of the Atlantic region would not be able to fish for aggregated LCS and hammerhead sharks starting in January, but would still be able to fish earlier in the 2015 fishing season compared to the 2010 through 2012 fishing seasons, which did not start until July 15. Based on public comment, some Atlantic fishermen in the southern portion of the region preferred a delayed opening for the potential to be fishing for aggregated LCS and hammerhead sharks from October through December. Therefore, the delayed opening could have direct, minor, beneficial economic impacts for fishermen, since there are limited opportunities for fishermen to fish for non-HMS in the southern portion of the Atlantic region later in the year. In the northern portion of the Atlantic region, a delayed opening for the aggregated LCS and hammerhead shark management groups would have direct, minor, beneficial economic impacts in the short-term for fishermen as they would have access to the aggregated LCS and hammerhead shark quotas in 2015. Overall, delaying the opening until July 1 would cause beneficial cumulative economic impacts across the region, since it would allow for a more equitable distribution of the quotas among constituents in this region. In addition, delaying the opening until July 1 would have minor, beneficial ecological impacts in the short term for the Atlantic aggregated LCS and hammerhead management groups, since it is consistent with recommendations from the stock assessments. The economic impacts would be neutral on long-term basis, because this delayed opening would be for only the 2015 fishing season.

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: November 19, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2014–28136 Filed 12–1–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140117052–4402–02]

RIN 0648–XD571

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for the State of New Jersey

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the 2014 summer flounder commercial quota allocated to the State of New Jersey has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New Jersey for the remainder of calendar year 2014, unless additional quota becomes available through a transfer from another state. Regulations governing the summer flounder fishery require publication of this notification to advise New Jersey that the quota has been harvested, and to advise Federal vessel and dealer permit holders that no Federal commercial quota is available for landing summer flounder in New Jersey.

DATES: Effective 0001 hours, November 29, 2014, through December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Reid Lichwell, (978) 281–9112, or *Reid.Lichwell@noaa.gov.*

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102.

The initial coastwide total commercial quota for summer flounder for the 2014 fishing year was set at 10,835,720 lb (4,915,000 kg) (79 FR 29371, May 22, 2014). The percent allocated to vessels landing summer flounder in New Jersey is 16.72499 percent, resulting in a commercial quota of 1,812,273 lb (822,033 kg). We adjusted the 2014 New Jersey summer flounder allocation to 1,765,169 lb (800,667 kg) to deduct research set-aside, quota overages from 2013, and adjustments for quota transfers between states.

The Administrator, Greater Atlantic Region, NMFS (Regional Administrator), monitors the state commercial landings and determines when a state's commercial quota has been harvested. NMFS is required to publish notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined that the 2014 New Jersey commercial summer flounder quota would be harvested by November 24, 2014, based upon dealer reports and other available information.

Section 648.4(b) provides that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, November 29, 2014, landings of summer flounder in New Jersey by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2014 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, November 29, 2014, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in New Jersey for the remainder of the calendar year, or until additional quota becomes available through a transfer from another state.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action closes the summer flounder fishery for New Jersey until January 1, 2015, under current regulations. The regulations at § 648.103(b) require such action to ensure that summer flounder vessels do not exceed quotas allocated to the states. If implementation of this closure was delayed to solicit prior public comment, the quota for this fishing year would be exceeded, thereby undermining the conservation objectives of the Summer Flounder Fishery Management Plan. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reason stated above.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 26, 2014.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–28379 Filed 11–26–14; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 130405338–4987–02]

RIN 0648–BC84

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Trawl Rationalization Program; Chafing Gear Modifications

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

ACTION: Final rule.

SUMMARY: This action modifies the existing chafing gear regulations for midwater trawl gear. This action includes regulations that affect all trawl sectors (Shorebased Individual Fishing Quota Program (IFQ), Mothership Cooperative Program (MS), Catcher/Processor Cooperative Program (C/P), and tribal fishery) managed under the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). Many Pacific whiting vessels also fish in the Alaska groundfish fisheries. This action establishes chafing gear restrictions for the Pacific Coast groundfish fishery that are more compatible with those for the Gulf of Alaska groundfish and Bering Sea and Aleutian Islands groundfish fisheries.

DATES: Effective January 1, 2015.

ADDRESSES: NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is summarized in the Classification section of this final rule. NMFS also prepared an Initial Regulatory Flexibility Analysis (IRFA) for the proposed rule. Copies of the IRFA, FRFA and the Small Entity Compliance Guide are available from William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or by phone at 206–526–6150. Copies of the Small Entity Compliance Guide are available on the West Coast Region's Web site at *http://www.westcoast.fisheries.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Becky Renko, 206–526–6110; (fax) 206–526–6736; *Becky.Renko@noaa.gov.*

SUPPLEMENTARY INFORMATION: This final rule modifies the chafing gear regulations that apply to all midwater trawl gear. Chafing or chafer panels are webbing or other material attached to the codend to minimize damage from wear caused by the codend rubbing against the stern ramp and trawl alley during net retrieval and from contact with the ocean floor. Midwater trawl gear is effective for targeting groundfish species that ascend above the ocean floor and is not designed to make frequent contact with the ocean floor. The only gear allowed for the targeting of Pacific whiting during the Pacific whiting primary seasons for the shorebased IFQ program, MS coop program, and CP coop program is midwater trawl gear. Midwater trawl gear is also used in the shorebased IFQ program to target non-whiting species such as widow, yellowtail, and chilipepper rockfish. A proposed rule was published in the **Federal Register** on March 19, 2014 (79 FR 15296), followed by a correction which was published on April 4, 2014 (79 FR 18876).

During the proposed rule comment period, NMFS specifically sought

comments on the proposed method of attachment for chafing gear, including the benefits and effects relative to current minimum mesh size restrictions and the prohibition on double-walled codends. Only single-walled codend are allowed in Pacific Coast groundfish regulations and this rule does not change that restriction. A single-walled codend is constructed of a single wall of webbing knitted with single or double-bar mesh (double twine tied into a single knot). A double-walled codend is constructed of two walls (layers) of webbing. The prohibition on the use of double-walled codends was developed by the Council in the 1990s to ensure the success of minimum mesh size restrictions. Minimum mesh size restrictions are intended to reduce the catch of juvenile and small unmarketable fish (groundfish and non-groundfish species). To prevent chafing gear from being used to create the effect of a double-walled codend, NMFS identified an interest in adding regulatory language to the final rule to further clarify the existing regulatory prohibition of double-walled codends (§ 660.130(b)(1)).

This rule also includes minor technical revisions to related regulatory text. Section 660.11, General definitions, contains basic descriptions of small footrope, large footrope and midwater trawl gear while the in-depth descriptions of these trawl gears found in § 660.130. Modifications at § 660.130 eliminate redundancy with § 660.11 and increase clarity.

Response to Comments

One letter of comment was received from an individual representing members of the Pacific whiting industry who are directly affected by the rulemaking.

Comment 1: NMFS states in the proposed rule that they are considering clarifying the chafing gear regulation to prevent creating an incentive to use chafing gear to make a double-walled codend. However, NMFS provides no information in the proposed rule about how the proposed chafing gear regulations relate to the creation of a double-walled codend. To the contrary, the regulations as proposed do not create an incentive for fishermen to fashion a double-walled codend because the chafing gear can only cover up to 75 percent of the codend and the top panel of the codend will remain open. Putting aside the fact that the entirety of the codend will not be covered with chafing gear, NMFS appears to request input about the potential for the creation of a double-walled codend because this has the potential to increase the catch of smaller fish and incidental catch of non-whiting species. However, doing this in the Pacific whiting fishery is counter intuitive because maximizing utilization and minimizing bycatch are standard practices. Similarly, NMFS states that the proposed rule might create an incentive for bottom contact with the codend. Given the fishing dynamics of a whiting midwater trawl, this is nearly impossible. These are not reasons to justify modification of the proposed rule language, especially in regards to the catcher/processor sector of the whiting fishery.

The proposed rule language most closely matches current industry practice. Any deviation from the PFMC recommendation will cause disruption and economic hardship to the fleet with no conservation or other benefit to fisheries or habitat. The rule language as proposed is well justified and should be implemented as soon as possible.

Response: When the chafing gear provisions were originally implemented, the Council's stated intent was to maintain the minimum mesh size restrictions so small fish could escape. The proposed rule did not consider changing regulations on minimum mesh size restrictions or the required use of single-walled codends (use of double-walled codends is prohibited). Therefore, NMFS believes it is necessary to maintain the Council's intent for the minimum mesh size restriction and double-walled codend prohibition, by simply adding regulatory text to state that chafing gear may not be used to create a double-walled codend.

The request for comment applied to all midwater trawl gear regardless of the target species and was not specific to vessels targeting Pacific whiting. With the growth in non-whiting midwater fishing, gear configurations could differ from those used in the Pacific whiting fishery. NMFS is clarifying the regulations so the intent of the gear regulations is maintained relative to minimum mesh size restrictions and the prohibition on the use of double-walled codends.

The data used in the analysis for this action shows that Pacific whiting vessels using midwater trawl gear, including those in the C/P sector, make occasional contact with the ocean floor. While NMFS recognizes that there is occasional bottom contact by midwater trawl, this final rule does not change regulations to address that occasional bottom contact.

With this final rule, NMFS is implementing the Council's recommendation for chafing gear and maintaining the Council's intent to allow escapement of small fish from the codend of midwater trawl gear. The gear restrictions on minimum mesh size and a prohibition on double-walled codends are existing requirements. All of the changes in this final rule either relieve a restriction or further clarify an existing restriction. Therefore, these changes would not cause disruption or economic hardship.

Changes From the Proposed Rule

In the trawl fishery management measures at § 660.130(b)(1) pertaining to the trawl codends, clarification is added to prevent vessel operators from using chafing gear to create a double-walled codend. The Council did not explicitly consider changes to the minimum mesh size restrictions or the requirement to use a single walled codend. Therefore, clarifications are being made to the regulations to preserve the intent of those regulations to allow small fish to escape given the changes to chafing gear restrictions.

Classification

NMFS has made a determination that this action is consistent with PCGFMP, the MSA, and other applicable law. To the extent that the regulations in this final rule differ from what was deemed by the Council, NMFS invokes its independent authority under 16 U.S.C. 1855(d). In making this determination, NMFS took into account the complete record, including the data, views, and comments received during the comment period.

An EA was prepared for this action. The EA is available on the Council's Web site at *http://www.pcouncil.org/.*

Pursuant to the procedures established to implement section 6 of Executive Order 12866, the Office of Management and Budget (OMB) has determined that this rule is not significant.

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), NMFS has prepared a Final Regulatory Flexibility Analysis (FRFA) in support of this action. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' response to those comments, relevant analysis contained in the action and its EA, and a summary of the analyses in this rule. A copy of the analyses and the EA are available from the NMFS (see **ADDRESSES**). A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this rule is

contained in the preamble to the proposed rule and this final rule and is not repeated here.

In addition to clarifying existing regulations, this rule revises the regulations to conform to current industry chafing gear practices while increasing the flexibility of vessel owners to make chafing gear modifications according to their own individual operations and needs. Only one comment was received on the proposed rule (See Response to Comments section above.) This comment did not raise any issues or concerns related to the IRFA but confirmed that this final rule closely matches current industry practice. No changes were made to this final rule as a result of the comment.

This final rule would affect those vessels that use midwater trawl gear in Pacific Coast groundfish fisheries. Midwater trawl gear is used by catcher/processors, mothership catcher vessels, and vessels that deliver to Shoreside processors. According to the Small Business Administration (SBA), a business involved in finfish harvesting is a small business if it is independently owned and operated, not dominant in its field of operation, and has combined annual receipts, not in excess of $20.5 million for all its affiliated operations worldwide. After taking into account vessels that fish in multiple midwater fisheries and their affiliations, NMFS estimates that there are 28 midwater businesses, 22 of which are small businesses.

In addition to No Action, two alternatives were considered. The No Action Alternative would limit chafing gear to the very end of the codend (the last 50 mesh lengths) and 50 percent of the codend's circumference via a single panel. Under Alternative 1 (Council Preferred Alternative), fishermen would have the option of covering up to 100 percent of the length of the codend and up to approximately 75 percent of the codend's circumference through the use of a single panel or multiple panels. Alternative 2A, fishermen would have the option of covering up to 100 percent of the length of the codend and up to 50 percent of the codend's circumference through the use of a single panel or multiple panels. Under Alternative 2B, fishermen would have the option of covering up to 50 percent of the length of the codend and up to 50 percent of the codend's circumference; however, no single panel could cover more than 50 meshes of the codend.

Adoption of any alternative other than the No Action Alternative would increase the useful life of the codend by allowing for greater protection against abrasion and wear. Currently, most fishermen are using gear compliant with Alternative 2B, so there would be no additional costs associated with this alternative. The No Action Alternative would require vessel owners to remove chafing gear which is estimated to be a one-time cost between $5,000 and $10,000. As a result, their nets will have the least amount of protection and thus have to be replaced more often. Alternative 1 is the Council's Preferred Alternative allows fishermen more flexibility and comports with the chafing gear currently used by the majority of the fleet that fish in both Pacific Coast and Alaska fisheries allowing the same gear to be used in both regions. Data in the EA shows that 62 percent of Pacific Coast whiting vessels also fished off Alaska between 2004 and 2010. The codend replacement costs are highest under No Actions and lowest under the Council Preferred Alternative. This rule implements the Council Preferred Alternative which closely matches current industry practice and is not likely to have a significant economic impact on any entity, large or small.

Copies of the Small Entity Compliance Guide prepared for this final rule are available on the West Coast Region's Web site at *http://www.westcoast.fisheries.noaa.gov/*.

This final rule does not contain a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA).

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the PCGFMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. The proposed regulations, which have a direct effect on the tribes, were deemed by the Council as "necessary or appropriate" to implement the PCGFMP as amended.

NMFS issued Biological Opinions under the Endangered Species Act (ESA) on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the PCGFMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the PCGFMP is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS issued a Supplemental Biological Opinion on March 11, 2006, concluding that neither the higher observed bycatch of Chinook in the 2005 whiting fishery nor new data regarding salmon bycatch in the groundfish bottom trawl fishery required a reconsideration of its prior "no jeopardy" conclusion. NMFS also reaffirmed its prior determination that implementation of the PCGFMP is not likely to jeopardize the continued existence of any of the affected species. Lower Columbia River coho (70 FR 37160, June 28, 2005) and Oregon Coastal coho (73 FR 7816, February 11, 2008) were recently relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead.

On January 22, 2013, NMFS requested the reinitiation of the biological opinion for listed salmonids to address changes in the fishery, including the trawl rationalization program and the emerging midwater trawl fishery. The consultation will not be completed prior to publication of this rule to modify chafing gear regulations for the Pacific whiting fishery. NMFS has considered the likely impacts on listed salmonids for the period of time between the final rule and the completion of the reinitiated consultation relative to sections 7(a)(2) and 7(d) of the ESA. On December 18, 2013, NMFS determined that ongoing fishing under the PCGFMP, assuming that the chafing gear modifications are implemented in 2014, prior to the completion of the consultation would not be likely to jeopardize listed salmonids or result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the

formulation or implementation of any necessary reasonable and prudent alternatives.

On December 7, 2012, NMFS completed a biological opinion concluding that the groundfish fishery is not likely to jeopardize non-salmonid marine species including listed eulachon, green sturgeon, humpback whales, Steller sea lions, and leatherback sea turtles. The opinion also concludes that the fishery is not likely to adversely modify critical habitat for green sturgeon and leatherback sea turtles. An analysis included in the same document as the opinion concludes that the fishery is not likely to adversely affect green sea turtles, olive ridley sea turtles, loggerhead sea turtles, sei whales, North Pacific right whales, blue whales, fin whales, sperm whales, Southern Resident killer whales, Guadalupe fur seals, or the critical habitat for Steller sea lions. With this rulemaking, an informal consultation on eulachon was initiated on January 21, 2013. NMFS considered whether the 2012 opinion should be reconsidered for eulachon in light of new information from the 2011 fishery and the proposed chafing gear modifications and determined that information about the eulachon bycatch in 2011 and chafing gear regulations did not change the anticipated extent of effects of the action, or provide any other basis to reinitiate the December 7, 2012 biological opinion. Therefore, the December 7, 2012 biological opinion meets the requirements of section 7(a)(2) of the ESA and implementing regulations at 50 CFR 402 and no further consultation is required at this time.

On November 21, 2012, the U.S. Fish and Wildlife Service (FWS) issued a biological opinion concluding that the groundfish fishery will not jeopardize the continued existence of the short-tailed albatross. The FWS also concurred that the fishery is not likely to adversely affect the marbled murrelet, California least tern, southern sea otter, bull trout, nor bull trout critical habitat.

This rule would not alter the effects on marine mammals over what has already been considered for the fishery. West Coast pot fisheries for sablefish are considered Category II fisheries under the MMPA's List of Fisheries, indicating occasional interactions. All other West Coast groundfish fisheries, including the trawl fishery, are considered Category III fisheries under the MMPA, indicating a remote likelihood of or no known serious injuries or mortalities to marine mammals. On February 27, 2012, NMFS published notice that the incidental taking of Steller sea lions in the West Coast groundfish fisheries is addressed in NMFS' December 29, 2010 Negligible Impact Determination (NID) and this fishery has been added to the list of fisheries authorized to take Steller sea lions (77 FR 11493, February 27, 2012). On September 4, 2013, based on its negligible impact determination dated August 28, 2013, NMFS issued a permit for a period of three years to authorize the incidental taking of humpback whales by the sablefish pot fishery (78 FR 54553, September 4, 2013).

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: November 25, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 is revised to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.130, paragraph (b) and the introductory text of paragraph (c) are revised to read as follows:

§ 660.130 Trawl fishery—management measures.

* * * * *

(b) *Trawl gear requirements and restrictions.* Trawl nets may be fished with or without otter boards, and may use warps or cables to herd fish.

(1) *Codends.* Only single-walled codends may be used in any trawl. Double-walled codends are prohibited. Chafing gear may not be used to create a double-walled codend.

(2) *Mesh size.* Groundfish trawl gear, including chafing gear, must meet the minimum mesh size requirements in this paragraph. Mesh size requirements apply throughout the net. Minimum trawl mesh sizes are: Bottom trawl, 4.5 inches (11.4 cm); midwater trawl, 3.0 inches (7.6 cm). Minimum trawl mesh size requirements are met if a 20-guage stainless steel wedge, less one thickness of the metal wedge, can be passed with only thumb pressure through at least 16 of 20 sets of two meshes each of wet mesh.

(3) *Bottom trawl gear*—(i) *Large footrope trawl gear.* Lines or ropes that run parallel to the footrope may not be augmented with material encircling or tied along their length such that they have a diameter larger than 19 inches (48 cm). For enforcement purposes, the footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.

(ii) *Small footrope trawl gear.* Lines or ropes that run parallel to the footrope may not be augmented with material encircling or tied along their length such that they have a diameter larger than 8 inches (20 cm). For enforcement purposes, the footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.

(A) *Selective flatfish trawl gear.* Selective flatfish trawl gear is a type of small footrope trawl gear. The selective flatfish trawl net must be a two-seamed net with no more than two riblines, excluding the codend. The breastline may not be longer than 3 ft (0.92 m) in length. There may be no floats along the center third of the headrope or attached to the top panel except on the riblines. The footrope must be less than 105 ft (32.26 m) in length. The headrope must be not less than 30 percent longer than the footrope. The headrope shall be measured along the length of the headrope from the outside edge to the opposite outside edge. An explanatory diagram of a selective flatfish trawl net is provided as Figure 1 of part 660, subpart D.

(B) [Reserved]

(iii) *Chafing gear restrictions for bottom trawl gear.* Chafing gear may encircle no more than 50 percent of the net's circumference and may be in one or more sections. Chafing gear may be used only on the last 50 meshes, measured from the terminal (closed) end of the codend. Only the front edge (edge closest to the open end of the codend) and sides of each section of chafing gear may be attached to the codend; except at the corners, the terminal edge (edge closest to the closed end of the codend) of each section of chafing gear must not be attached to the net. Chafing gear must be attached outside any riblines and restraining straps.

(4) *Midwater (pelagic or off-bottom) trawl gear.* Midwater trawl gear must have unprotected footropes at the trawl mouth, and must not have rollers, bobbins, tires, wheels, rubber discs, or any similar device anywhere on any part of the net. The footrope of midwater gear may not be enlarged by encircling it with chains or by any other means. Ropes or lines running parallel to the footrope of midwater trawl gear must be bare and may not be suspended

with chains or any other materials. Sweep lines, including the bottom leg of the bridle, must be bare. For at least 20 ft (6.15 m) immediately behind the footrope or headrope, bare ropes or mesh of 16-inch (40.6-cm) minimum mesh size must completely encircle the net.

(i) *Chafing gear restrictions for midwater trawl gear.* Chafing gear may cover the bottom and sides of the codend in either one or more sections. Only the front edge (edge closest to the open end of the codend) and sides of each section of chafing gear may be attached to the codend; except at the corners, the terminal edge (edge closest to the closed end of the codend) of each section of chafing gear must not be attached to the net. Chafing gear is not permitted on the top codend panel except as provided in paragraph (b)(4)(ii) of this section.

(ii) *Chafing gear exception for midwater trawl gear.* A band of mesh (a "skirt") may encircle the net under or over transfer cables, lifting or splitting straps (chokers), riblines, and restraining straps, but must be the same mesh size and coincide knot-to-knot with the net to which it is attached and be no wider than 16 meshes.

(c) *Restrictions by limited entry trawl gear type.* Management measures may vary depending on the type of trawl gear (*i.e.*, large footrope, small footrope, selective flatfish, or midwater trawl gear) used and/or on board a vessel during a fishing trip, cumulative limit period, and the area fished. Trawl nets may be used on and off the seabed. For some species or species groups, Table 1 (North) and Table 1 (South) of this subpart provide trip limits that are specific to different types of trawl gear: Large footrope, small footrope (including selective flatfish), selective flatfish, midwater, and multiple types. If Table 1 (North) and Table 1 (South) of this subpart provide gear specific limits for a particular species or species group, it is unlawful to take and retain, possess or land that species or species group with limited entry trawl gears other than those listed. The following restrictions are in addition to the prohibitions at § 660.112(a)(5).

* * * * *

[FR Doc. 2014–28275 Filed 12–1–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120706220–4964–02]

RIN 0648–BC34

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Pot Gear Fishing Closure In the Pribilof Islands Habitat Conservation Zone in the Bering Sea; Amendment 103

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 103 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP). This rule closes year-round the Pribilof Islands Habitat Conservation Zone (PIHCZ) to directed fishing for Pacific cod with pot gear to minimize bycatch and prevent overfishing of Pribilof Islands blue king crab (PIBKC). This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the BSAI FMP, and other applicable laws.

DATES: *Effective:* January 1, 2015.

ADDRESSES: Electronic copies of the BSAI FMP, Amendment 103 to the BSAI FMP, the Environmental Assessment (EA), and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *https://alaskafisheries.noaa.gov/cm/analyses/*.

FOR FURTHER INFORMATION CONTACT: Anne Marie Eich, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries of the Bering Sea and Aleutian Islands management area (BSAI) in the Exclusive Economic Zone off Alaska under the BSAI FMP. The North Pacific Fishery Management Council (Council) prepared the BSAI FMP under the authority of the Magnuson-Stevens Act and other applicable laws. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. Regulations implementing the BSAI FMP appear at 50 CFR part 679.

This final rule implements Amendment 103 to the BSAI FMP. This rule closes the PIHCZ to directed fishing for Pacific cod with pot gear.

Amendment 103 to the BSAI FMP is being implemented with Amendment 43 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). Amendment 43 to the Crab FMP revises the current rebuilding plan for PIBKC to include the Pacific cod pot gear prohibition that would be implemented under Amendment 103. No regulatory amendments are needed to implement Amendment 43. These amendments implemented together ensure that the PIBKC rebuilding plan is revised to further reduce the bycatch of PIBKC in the groundfish fisheries, supporting the rebuilding of the PIBKC stock in the shortest time possible.

NMFS published the Notice of Availability (NOA) of Amendment 103 to the BSAI FMP and Amendment 43 to the Crab FMP in the **Federal Register** on August 21, 2014, with a 60-day comment period that ended October 20, 2014 (79 FR 49487). The Secretary of Commerce approved Amendment 103 to the BSAI FMP and Amendment 43 to the Crab FMP on November 14, 2014. NMFS received two comment letters on the NOA of Amendment 103 to the BSAI FMP and Amendment 43 to the Crab FMP. These comments raised identical concerns to one of the comments received on the proposed rule, which is summarized in the "Comments and Responses" section in this final rule.

NMFS published a proposed rule to implement Amendment 103 to the BSAI FMP and the closure of the PIHCZ to directed fishing for Pacific cod with pot gear on August 29, 2014 (79 FR 51520). The 30-day comment period on the proposed rule ended September 29, 2014. NMFS received two comment letters during the proposed rule comment period. The comment letters contained three unique comments. A summary of those comments and NMFS' responses are provided in the "Comments and Responses" section of this preamble.

This final rule closes the PIHCZ year-round to directed fishing for Pacific cod with pot gear to minimize bycatch of PIBKC in groundfish fisheries and prevent overfishing of PIBKC. The term "directed fishing" is defined in the groundfish fisheries regulation at § 679.2. In June 2012, the Council recommended closing the PIHCZ to directed fishing for Pacific cod with pot gear based on (1) the high rate of PIBKC bycatch in the PIHCZ relative to other areas outside of the PIHCZ; (2) the high concentration of PIBKC in the PIHCZ; (3) the occurrence of known PIBKC

habitat within the PIHCZ; (4) the high rate of PIBKC bycatch in the Pacific cod pot fishery relative to other groundfish fisheries; and (5) the limited impact the Pacific cod pot closure in the PIHCZ would have on the Pacific cod pot fishery relative to other groundfish fishery closures. The proposed rule preamble provides additional information on the closure, including detailed information on the development of the action, the impacts and effects of the action, and the Council's and NMFS' rationale for the action (79 FR 51520, August 29, 2014). The proposed rule is available from the NMFS Alaska Region Web site (see **ADDRESSES**).

Summary of Regulatory Provisions

This final rule revises § 679.22(a)(6) to prohibit directed fishing for Pacific cod using pot gear in the PIHCZ. The existing prohibition on the use of trawl gear in the PIHCZ is retained. In addition, Figure 10 to 50 CFR part 679 is revised by (1) changing the title from "Pribilof Islands Habitat Conservation Area in the Bering Sea" to read "Pribilof Islands Habitat Conservation Zone (PIHCZ) in the Bering Sea" to be consistent with the definition of the PIHCZ at § 679.2, and (2) reformatting the map for greater accuracy and improved appearance. These format changes are non-substantive.

Changes From Proposed to Final Rule

No changes were made from proposed to final rule.

Comments and Responses

NMFS received four comment letters during the NOA and proposed rule comment periods. The comment letters contained three unique comments. A summary of the comments and NMFS' response follows.

Comment 1: NMFS should close all fishing in the Pribilof Islands to stop commercial fishermen from stealing the fish from this area and overfishing. NOAA is not enforcing the laws and is allowing too much overfishing.

Response: As explained in the preamble to the proposed rule, PIBKC is not subject to overfishing. The purpose of this action is to amend the PIBKC rebuilding plan to prevent overfishing and to rebuild the PIBKC stock in the shortest time possible. This final rule to implement Amendment 103 to the BSAI FMP closes year-round the PIHCZ to directed fishing for Pacific cod with pot gear. Prohibiting directed fishing for Pacific cod with pot gear in the PIHCZ minimizes bycatch of PIBKC to the extent practicable, prevents overfishing, and supports rebuilding of the PIBKC stock. Additional detail on the purpose of this action is provided in the preamble to the proposed rule and Sections 2.2 and 4.5.5 of the EA.

As explained in the preamble to the proposed rule, the Council and NMFS evaluated a number of additional alternatives that would close other groundfish fisheries to minimize PIBKC bycatch. Additional prohibitions on other groundfish fisheries (*i.e.*, hook-and-line fisheries, and non-Pacific cod pot fisheries) were not projected to result in PIBKC bycatch savings, but would likely have serious adverse economic impacts (see Section 4.5.5.1 of the EA).

Under the authority of the Crab FMP, NMFS and the State of Alaska Department of Fish and Game (ADF&G) have implemented a number of additional management measures to minimize bycatch of PIBKC. NMFS has classified PIBKC as a prohibited species in groundfish fisheries, which requires avoiding incidental catch of prohibited species and immediately returning prohibited species to the sea with a minimum of injury (§§ 679.21 and 679.7(a)(12)). Since 1995, NMFS has closed the PIHCZ to groundfish trawl gear to protect blue king crab (60 FR 4110, January 20, 1995). ADF&G closes the Pribilof Islands red king crab fishery as well as other crab fisheries in other areas where PIBKC are known to occur.

NOAA Office of Law Enforcement monitors compliance with closure areas and takes enforcement action, as appropriate.

Comment 2: The proposed closure is a strong step toward allowing for recovery of the PIBKC population but NMFS is urged to implement further measures including broader-scale ecosystem level protections in the Pribilof Islands region, closure of groundfish fisheries in areas that cover the entire distribution of PIBKC stock, increased observer coverage, and additional protective measures regarding bycatch.

Response: NMFS acknowledges the support for this action. NMFS notes that the recommendation to implement broader-scale ecosystem level protections in the Pribilof Islands region is outside the scope of this action. NMFS did evaluate the effects of this action on other marine resources in the Pribilof Islands region and determined that the impact of this action would not significantly affect other marine resources (see Section 5 of the EA). NMFS also evaluated the cumulative impacts of this action and determined that this action would not have a significant cumulative impact (see Section 6 of the EA).

In response to the suggestion for further measures for groundfish fisheries in areas that cover the entire distribution of PIBKC stock, the Council and NMFS evaluated a number of additional alternatives that would further reduce PIBKC bycatch outside the PIHCZ. The Council did not recommend and NMFS did not implement closures to groundfish fisheries outside the PIHCZ because the PIHCZ is the area where this stock is concentrated. Additional closures of groundfish fisheries outside the habitat conservation zone could result in serious economic impacts to the groundfish fishery sectors without measurable conservation benefits for the PIBKC stock. Further, extending groundfish fishery closures to areas outside the PIHCZ is not viable at this time because of the difficulty in establishing this stock's boundary outside the PIHCZ and because of the current limitations in distinguishing bycatch of this stock from bycatch of St. Matthew Island blue king crab. Additional detail on the limited impact of area closures to groundfish fisheries outside the PIHCZ on the PIBKC stock is provided in the preamble to the proposed rule and in Section 4 of the EA.

In response to comments recommending increased observer coverage, NMFS notes that it implemented Amendment 86 to the BSAI FMP on January 1, 2013 (77 FR 70062, November 21, 2012) to restructure the funding and deployment system for the North Pacific Groundfish and Halibut Observer Program (Observer Program) and expand observer coverage requirements to halibut vessels and vessels less than 60 ft. in length overall. Section 3.4 of the EA prepared for this action explains that the restructured Observer Program provides the necessary observer coverage to implement this action. Therefore, additional changes to observer coverage are not required as part of this action. Finally, as explained in response to comment 1, NMFS and ADF&G have implemented a range of additional protective measures to minimize PIBKC bycatch.

Comment 3: While NMFS has little control over global greenhouse gas emissions, it can and should manage fishing activities in order to avoid adverse impacts on Alaska's marine ecosystem from serious and lasting changes in productivity due to ocean acidification processes, increasing water temperatures, and changes in seawater circulation patterns.

Response: NMFS acknowledges that predicted changes in ocean

acidification, temperature, and currents will likely affect the biological productivity of Alaska's marine environment. The biological ramifications of these predicted oceanographic changes are uncertain; however, this comment is outside the scope of this action. The purpose of this action is to prevent overfishing the PIBKC stock. Nonetheless, NMFS and the Council consistently consider management changes to the fisheries under their jurisdiction and explore ways to integrate ecosystem considerations in fisheries management decisions.

Classification

The Administrator, Alaska Region, NMFS, determined that this final rule is necessary for the conservation and management of the BSAI groundfish fishery and that it is consistent with the BSAI FMP, including Amendment 103, the Magnuson-Stevens Act, and other applicable laws.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preamble to the proposed rule and the preamble to this final rule serve as the small entity compliance guide. This rule does not require any additional compliance from small entities that is not described in the preamble to the proposed rule. Copies of the proposed rule and this final rule are available from NMFS at the following Web site: *http://alaskafisheries.noaa.gov.*

Executive Order 12866

The final rule has been determined to be not significant for purposes of Executive Order 12866.

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) contains the requirements for the FRFA in section 604(a)(1) through (6) of the RFA. The FRFA must contain:

1. A succinct statement of the need for, and objectives of, the rule;
2. A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility (IRFA) analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
3. The response of the agency to any comments on the proposed rule by the Chief Counsel for Advocacy of the Small Business Administration;
4. A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available;
5. A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and
6. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

NMFS prepared an IRFA that addressed the requirements described in section 603(b)(1) through (5) of the RFA. This FRFA incorporates the IRFA and the summary of the IRFA in the proposed rule (79 FR 51520, August 29, 2014). NMFS published the IRFA in a combined document with the Regulatory Impact Review (RIR). The RIR/IRFA is available on the NMFS Alaska Region Web site: *http://alaskafisheries.noaa.gov.*

A Succinct Statement of the Need for, and Objectives of, the Rule

A statement of the need for, and objectives of, this rule are explained in the preamble to this final rule and is not repeated here.

Summary of Significant Issues Raised During Public Comment

NMFS published the proposed rule on August 29, 2014 (79 FR 51520). The 30-day comment period on the proposed rule closed on September 29, 2014. NMFS received four letters of public comment on the proposed rule. These comment letters did not address the IRFA or the economic impacts of the rule generally.

The Response to Comments From Small Business Administration

NMFS did not receive any comments on the proposed rule from the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Number and Description of Small Number and Description of Small Entities Regulated by the Final Rule

The determination of the number and description of small entities regulated by these actions is based on small business size standards established by the SBA. On June 12, 2014, the SBA issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647, June 12, 2014). The rule increased the size standard for Finfish Fishing from $19.0 million to $20.5 million, Shellfish Fishing from $5.0 million to $5.5 million, and Other Marine Fishing from $7.0 million to $7.5 million.

The entities directly regulated by this action are the owners and operators of vessels directed fishing for Pacific cod using pot gear in the PIHCZ. Earnings from all Alaska fisheries for 2010, the most recent year of complete earnings data, were matched with the vessels that participated in the BSAI groundfish fisheries for that year. Based on the known affiliations and joint ownership of the vessels, 114 vessels caught, or caught and processed, less than $20.5 million ex-vessel value or product value of groundfish and other species in the BSAI. These 114 vessels are considered small entities because they all have annual ex-vessel revenues less than the $20.5 million standard for small finfish fishing vessels under the RFA. Of these 114 vessels, 34 participated in a directed fishery for Pacific cod using pot gear, and all of these vessels could be regulated by this action.

The six Western Alaska Community Development Quota (CDQ) groups and the 65 communities they represent are small entities under the RFA. Each of the CDQ groups receives annual allocations of Pacific cod in the BSAI. The CDQ groups harvest these allocations with vessels they own and vessels they contract with. The vessels owned by the CDQ groups and used to target Pacific cod are primarily large catcher/processors using hook-and-line or trawl gear. In 2012, the CDQ groups harvested 24,402 metric tons of Pacific cod. Less than 15 percent of this catch was made by vessels using pot gear, none of which were owned by the CDQ groups (actual catch using pot gear is confidential). None of the Pacific cod caught by the CDQ groups was harvested within the proposed closure areas. As CDQ groups have never used pot gear to harvest Pacific cod within the proposed closure area, this final rule is not expected to impact the CDQ

groups, the CDQ communities, or the vessels that fish on their behalf.

The impacts of the action on directly regulated small entities are analyzed in the IRFA. In recent years, many of the vessels identified in this analysis as having potential small entity impacts have become members of fishing cooperatives. Increased affiliation with the BSAI Freezer-Longline Cooperative, as well as various crab cooperatives, has resulted in many vessels now being classified as large entities due to these affiliations. This analysis has incorporated cooperative affiliation information to adjust the numbers of potentially directly regulated small entities and, thereby, the estimate of revenue at risk specific to small entities. The result is evident in the declining small entity impact estimates in 2010, where estimated impacts are near zero for many of the alternatives with the exception of potential CDQ impacts, which are, by definition, small although the vessels that harvest for CDQ organizations are themselves now large via affiliations. Thus, with increased membership in cooperatives, nearly all of the potentially directly regulated vessels are presently classified as large entities and the potential effects of the action on small entities appears to be *de minimis*.

Recordkeeping, Reporting, and Compliance Requirements

This action will not change recordkeeping and reporting requirements. Vessel operators will continue to be required to comply with the specified area closure and gear requirements.

Description of Significant Alternatives to the Final Action That Minimize Adverse Impacts on Small Entities

The EA analyzed six alternatives with components and options for closures in the Bering Sea to minimize the bycatch of PIBKC and reduce the risk of overfishing.

The Council's preferred alternative, Alternative 2b, was selected as the action alternative. Alternative 2b closes year-round the PIHCZ to directed fishing for Pacific cod with pot gear to prevent overfishing of PIBKC and minimize bycatch of PIBKC in groundfish fisheries. Alternative 2b further reduces PIBKC bycatch mortality in groundfish fisheries, enhancing the likelihood of a successful rebuilding effort.

Alternative 1 is the status quo or no action alternative, which would not change the closure to all trawl gear in the PIHCZ. This alternative does not meet the goals and objectives of the action to minimize bycatch of PIBKC, and would not provide further protection to PIBKC from the potential effects of the groundfish fisheries.

Alternatives 2 through 6 would retain all of the current protection measures in place for the PIBKC stock and apply additional measures. These alternatives would establish closure areas for specific groundfish fisheries that are described in the following paragraphs for each alternative.

Alternative 2 included three specific methods for closing the PIHCZ to directed fishing for a variety of groundfish fisheries. Alternative 2a would close the PIHCZ on an annual basis to groundfish fisheries that met a threshold of PIBKC bycatch from 2003 to 2010 that is greater than 5 percent of the acceptable biological catch (ABC) of PIBKC. Fisheries that met the 5-percent threshold are the Pacific cod hook-and-line fishery, Pacific cod pot fishery, yellowfin sole trawl fishery, and other flatfish trawl fishery. Alternative 2b, the preferred alternative implemented by this action, would close the PIHCZ year-round to Pacific cod pot fishing. Alternative 2c would close the PIHCZ to directed fishing for Pacific cod by vessels using pot gear if the total PIBKC bycatch in all groundfish fisheries in the BSAI reached 20 percent, 30 percent, or 50 percent of the overall trigger closure cap of 75 percent of the ABC. Alternative 2c would also require vessels directed fishing for Pacific cod with pot gear in the PIHCZ to maintain 100 percent observer coverage. Alternatives 2a and 2c would have a greater impact on small entities than Alternative 2b because more vessels would be subject to potential closures in the PIHCZ. Alternative 2c would also increase the potential costs on small entities by increasing observer coverage requirements for these vessels.

Alternative 3 would close the existing ADF&G crab closure area between 168° and 170° West longitude, and between 57° and 58° North latitude to additional fishing effort, in addition to the status quo groundfish trawl closure. Alternative 3a would close the existing ADF&G crab closure area to all groundfish fisheries that have contributed greater than a designated threshold to bycatch of PIBKC since 2003. The closure would apply to any fishery that had bycatch of PIBKC between 2003 and 2010 of greater than 5 percent of ABC. Under the 5-percent threshold, the closure would apply to the following fisheries: yellowfin sole trawl, other flatfish trawl, Pacific cod pot, and Pacific cod hook-and-line. Alternative 3b would close the existing ADF&G crab closure area to directed fishing for Pacific cod only. Alternative 3a would have a greater impact on small entities than Alternative 3b because more vessels would be subject to potential closures in the PIHCZ. While Alternative 3b could potentially have less of an impact on small entities than the other alternatives (data is confidential for all years except 2005), the Alternative 3 closure boundaries exclude southern parts of the PIHCZ where PIBKC bycatch by Pacific cod pot fishing has occurred (see Figure 2–2 in the EA).

Alternative 4 would establish a closure throughout the range of the PIBKC based on either the distribution of the PIBKC stock aggregated from 1975 to 2009, or from 1984 to 2009. This range of data represented recent trends of the known distribution of PIBKC based on current stock survey methodologies and is greater than the area closure in the PIHCZ and the ADF&G closures defined under Alternative 3. Alternatives 4a and 4b would establish closures consistent with the same criteria established for Alternatives 2a and 2b, and 3a and 3b, respectively. Alternative 4 would have a greater impact on small entities due to the greater size of the closure.

Alternative 5 would establish a prohibited species catch (PSC) limit equal to either the overfishing limit (OFL), the ABC, or a proportion of the ABC for the PIBKC stock. All bycatch of the PIBKC in all groundfish fisheries would accrue toward this PSC limit, and those groundfish fisheries that contributed to greater than a designated threshold of PIBKC bycatch since 2003 would be closed once the fishery-wide PSC limit was reached.

Four area closure options are included under Alternative 5: 5a, 5b, 5c, and 5d, which correspond to the closure areas defined under Alternatives 1, 3, 4a, and 4b (1975 to 2009 PIBKC stock distribution and 1984 to 2009 PIBKC stock distribution), respectively. Under each of these options, the closure would be triggered by attainment of a fishery-wide PIBKC PSC limit set at the following options: PSC limit equal to the OFL, PSC limit equal to the ABC, PSC limit equal to 90 percent of the ABC, or PSC limit equal to 75 percent of the ABC. Under Option 5d, under the PSC limit equal to 90 percent of the ABC and the PSC limit equal to 75 percent of the ABC, there would be an additional option for allocation of the PSC limit by gear type: 40 percent trawl gear, 40 percent pot gear, and 20 percent hook-and-line gear.

Alternative 6 would have two components: (1) Establish a year-round closure of the PIHCZ to directed fishing

for Pacific cod using pot gear, and (2) establish a triggered closure of the area representing the distribution of the PIBKC stock from 1984 to 2009. The PSC limit associated with the triggered closure would be established as a fishery-wide level at 75 percent of the ABC. The PSC limit would be set either in the numbers of crab based on the average weight in the previous season or in numbers of crab based on a rolling 5-year average weight. The PSC limit would be further allocated to sectors either by gear type or to all groundfish fisheries in the aggregate by seasons.

In addition, each of the alternatives included options to increase observer coverage that could be applied to all fisheries or a specific fishery.

The Council ultimately did not consider trigger cap closures (Alternatives 2c, 5, and 6) viable alternatives, due to uncertainty in appropriate definition of the stock area and the resulting current limitations in the methodology for estimating mortality of PIBKC relative to the stock distribution (see discussion in Section 4.2.2 of the EA). These alternatives would not have a measurable impact that would minimize the bycatch of PIBKC relative to status quo. These alternatives could reduce the risk of overfishing, but they would not effectively prevent overfishing, consistent with the goals and objectives of this action.

None of the viable alternatives (Alternative 2a, Alternatives 3a and 3b, and Alternatives 4a and 4b) could potentially have less of an impact on fisheries than the Council's recommended alternative, 2b. Table 1–34 in the IRFA (see **ADDRESSES**) provides a comparison of the potential impacts on directly regulated small entities, in terms of gross revenue at risk, under each of the alternatives. Based on the best available scientific data and information, there are no alternatives to the proposed action that have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the proposed rule on directly regulated small entities.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries.

Dated: November 20, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Public Law 108–447; Public Law 111–241

■ 2. In § 679.22, revise paragraph (a)(6) to read as follows:

§ 679.22 Closures.

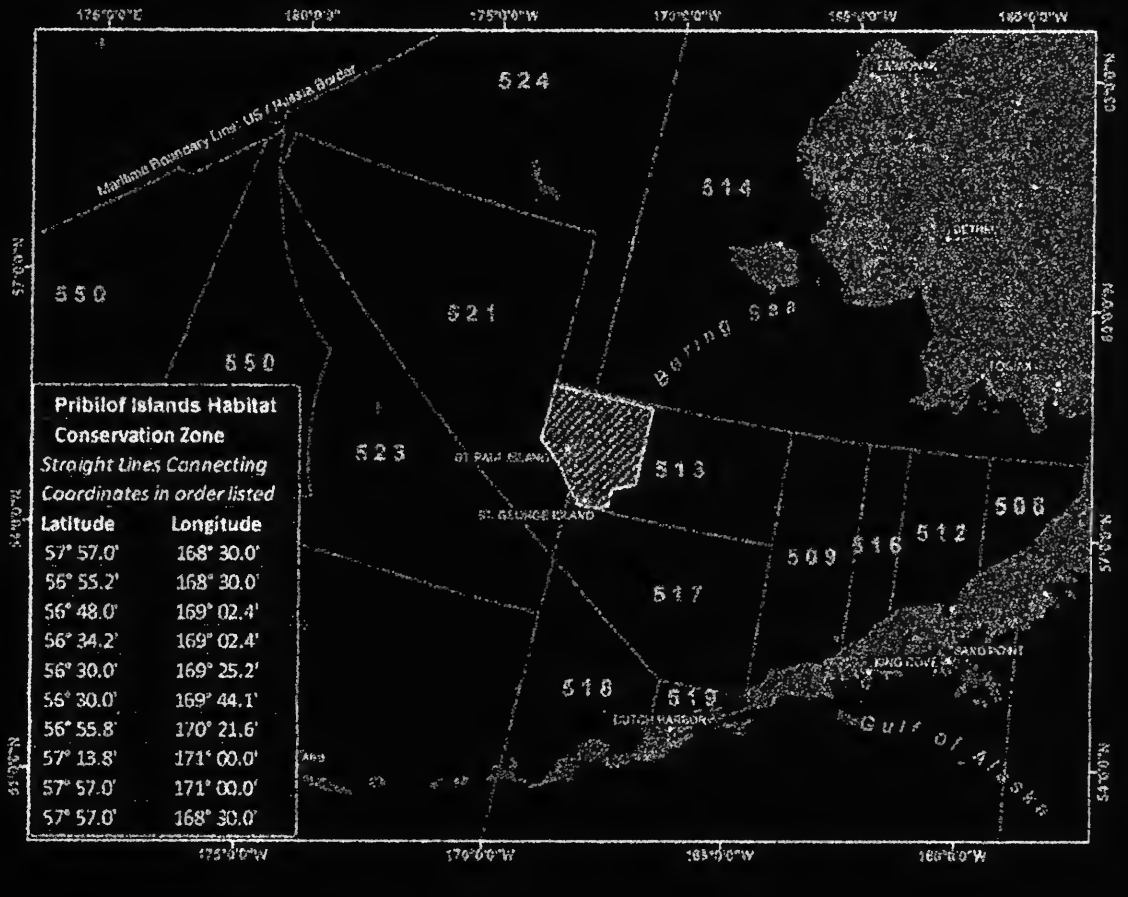
(a) * * *

(6) *Pribilof Islands Habitat Conservation Zone.* Directed fishing for groundfish using trawl gear and directed fishing for Pacific cod using pot gear is prohibited at all times in the area defined in Figure 10 to this part as the Pribilof Islands Habitat Conservation Zone.

* * * * *

■ 3. Revise Figure 10 to part 679—including the Figure heading—to read as follows:

Figure 10 to Part 679—Pribilof Islands Habitat Conservation Zone (PIHCZ) in the Bering Sea.



[FR Doc. 2014–28113 Filed 12–1–14; 8:45 am]
BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130710606–4972–02]

RIN 0648–BD48

Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch Management in the Gulf of Alaska Non-Pollock Trawl Fisheries; Amendment 97

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

ACTION: Final rule.

SUMMARY: NMFS adopts a final rule to implement Amendment 97 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). Amendment 97 limits Chinook salmon prohibited species catch (PSC) in Western and Central Gulf of Alaska (GOA) non-pollock trawl catcher/processor (C/P) and catcher vessel (CV) fisheries. This action establishes separate annual Chinook salmon PSC limits for three sectors fishing for groundfish species other than pollock: trawl C/Ps, trawl CVs participating in the Central GOA Rockfish Program, and trawl CVs not participating in the Central GOA Rockfish Program. If a sector reaches its Chinook salmon PSC limit, NMFS will prohibit further fishing for non-pollock groundfish by vessels in that sector. This action also establishes and clarifies Chinook salmon retention and discard requirements for vessels and processors participating in both the GOA pollock and non-pollock groundfish trawl fisheries. This action is necessary to minimize the catch of Chinook salmon to the extent practicable in the GOA non-pollock trawl fisheries. Amendment 97 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

DATES: Effective January 1, 2015.

ADDRESSES: An electronic copy of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/FRFA or Analysis) prepared for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *https://alaskafisheries.noaa.gov/cm/analyses/*.

An electronic copy of the Biological Opinion on the effects of the Alaska groundfish fisheries on Endangered Species Act (ESA)-listed species is available at *http://alaskafisheries.noaa.gov/protectedresources/stellers/plb/default.htm*.

An electronic copy of the proposed rule (79 FR 35971, June 25, 2014) may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *https://alaskafisheries.noaa.gov/regs/summary.htm*.

FOR FURTHER INFORMATION CONTACT: Jeff Hartman, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the U.S. exclusive economic zone of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

NMFS published the Notice of Availability for Amendment 97 in the **Federal Register** on June 5, 2014 (79 FR 32525), with a 60-day comment period that ended on August 4, 2014. The Secretary of Commerce approved Amendment 97 on September 3, 2014, after taking into account public comments received on Amendment 97 and the proposed rule that would implement Amendment 97, and determining that Amendment 97 is consistent with the national standards in section 301 of the Magnuson-Stevens Act, other provisions of the Magnuson-Stevens Act, and other applicable laws.

NMFS published a proposed rule to implement Amendment 97 on June 25, 2014 (79 FR 35971). The 30-day comment period on the proposed rule ended July 25, 2014. A brief summary of this action is provided in the following paragraphs. A detailed description of this action is provided in the preamble to the proposed rule and is not repeated here.

Background

This final rule implements Amendment 97 to the FMP. Under this rule, NMFS establishes separate annual Chinook salmon PSC limits for trawl catcher/processors (Trawl C/P Sector), trawl CVs participating in the Central GOA Rockfish Program (Rockfish Program CV Sector), and trawl CVs not participating in the Central GOA Rockfish Program (Non-Rockfish Program CV Sector). These Chinook salmon PSC limits will apply to these three sectors when they are directed fishing for groundfish species other than pollock in the Western and Central Regulatory Areas of the GOA. Existing regulations at § 679.2 define the term "directed fishing." If a sector reaches its Chinook salmon PSC limit, NMFS will prohibit further directed fishing for non-pollock groundfish by vessels in that sector. This action also establishes and clarifies Chinook salmon retention and discard requirements for vessels, shoreside processors, and stationary floating processors (SFPs) participating in both the GOA pollock and non-pollock groundfish trawl fisheries. In the preamble to the proposed rule, NMFS provided a detailed review of Amendment 97 and its implementing regulations (79 FR 35971, June 25, 2014). The key components of Amendment 97 and its implementing regulations are briefly described in this preamble.

The Council and NMFS have adopted various measures intended to control the catch of species taken incidentally in groundfish fisheries. Certain species are designated as "prohibited species" in the FMP because they are the target of other, fully utilized domestic fisheries. The prohibited species include Pacific halibut, Pacific herring, Pacific salmon, steelhead trout, king crab, and Tanner crab. The FMP and regulations at § 679.21 require that catch of prohibited species, more commonly known as prohibited species catch, or PSC, must be minimized to the extent practicable while fishing for groundfish; and, when incidentally caught, these prohibited species must be immediately returned to the sea with a minimum of injury.

PSC must be either (1) not sold or kept for personal use and discarded (see regulations at § 679.21), or (2) retained but not sold under the Prohibited Species Donation (PSD) Program (see regulations at § 679.26). In an effort to minimize waste of salmon incidentally caught and killed, NMFS established the PSD Program for the donation of incidentally caught salmon. The PSD Program reduces the amount of edible protein discarded under PSC regulatory requirements (see regulations at § 679.21). The PSD Program allows permitted participants to retain salmon for distribution to economically disadvantaged individuals through tax-exempt hunger relief organizations.

One of the prohibited species of great concern to the Council and NMFS is Chinook salmon. Chinook salmon is a prohibited species in the groundfish fisheries because of its value in salmon fisheries. Chinook salmon is a culturally and economically valuable species that is fully allocated and for which State and Federal managers seek to

conservatively manage harvests. The scarcity of Chinook salmon in some regions of the Pacific Northwest, including Washington, Oregon, and Idaho, has led to an endangered or threatened listing for a number of stocks under the Endangered Species Act (ESA). Small amounts of a few ESA-listed Chinook salmon are caught in GOA non-pollock trawl fisheries. The November 30, 2000, Biological Opinion on the effects of the Alaska groundfish fisheries on ESA-listed salmon of the Pacific Northwest established an incidental take statement (ITS) for an annual threshold amount of 40,000 Chinook salmon for the GOA groundfish fisheries. Exceeding the ITS for Chinook salmon triggers reinitiation of section 7 consultation under the ESA (see Section 3 of the Analysis) (see **ADDRESSES**).

The Council and NMFS have established a range of management measures to constrain the impact of groundfish fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI) and the GOA on Chinook salmon. These management measures are intended to minimize Chinook salmon bycatch to the extent practicable. Section 1.5 of the Analysis summarizes the measures implemented in the GOA groundfish fisheries.

After reviewing the information in the Analysis and after consideration of public comment during the development of Amendment 97, the Council and NMFS developed three goals for this action (see Section 1 of the Analysis). The first goal is to avoid exceeding the annual Chinook salmon threshold of 40,000 Chinook salmon identified in the ITS. The second goal is to minimize Chinook salmon bycatch to the extent practicable, consistent with the Magnuson-Stevens Act and National Standard 9. The third goal is to increase the amount of Chinook salmon stock of origin information available to NMFS and the Council.

Regulations Implemented by This Action

This action amends regulations at §§ 679.7 and 679.21 to implement Chinook salmon PSC limits in the Western and Central GOA non-pollock groundfish trawl fisheries and meet the three goals of this action. Specifically, this action (1) establishes annual Chinook salmon PSC limits for the Trawl C/P, Rockfish Program CV, and Non-Rockfish Program CV Sectors; (2) establishes an "incentive buffer" that allows the annual Chinook salmon PSC limit for the Trawl C/P and Non-Rockfish Program CV Sectors to vary depending on the amount of Chinook salmon PSC taken by those sectors in the previous year; (3) establishes a seasonal limit on the amount of Chinook salmon PSC that can be taken in the Trawl C/P Sector prior to June 1 of each year; (4) allows the reallocation of unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector on October 1 and November 15 of each year; and (5) establishes salmon retention requirements to improve the collection of biological samples that could aid in the determination of stock of origin of Chinook salmon PSC in the non-pollock trawl fisheries.

Of particular importance is the fact that this rule implements a long-term average annual Chinook salmon PSC limit of 7,500 Chinook salmon to non-pollock trawl fisheries in the Western and Central GOA. This rule does this by establishing separate, sector-level Chinook salmon PSC limits for GOA non-pollock Trawl C/Ps, Rockfish Program CVs, and Non-Rockfish Program CVs. A description of and rationale for these regulatory provisions is provided in the preamble to the proposed rule and is not repeated here (79 FR 35971, June 25, 2014).

Implementation

During the first year of implementation, (*i.e.*, 2015), this rule establishes an annual Chinook salmon PSC limit of 3,600 Chinook salmon for the Trawl C/P Sector, 1,200 Chinook salmon for the Rockfish Program CV Sector, and 2,700 Chinook salmon for the Non-Rockfish Program CV Sector. The total Chinook salmon PSC limit in the first year of implementation for all three sectors is 7,500 Chinook salmon. If a sector reaches or is projected to reach its Chinook salmon PSC limit, NMFS will close directed fishing for all non-pollock groundfish species by vessels in that sector for the remainder of the calendar year. Each sector is subject to its own annual Chinook salmon PSC limit, and NMFS will manage each sector separately.

Beginning in 2016 and for each subsequent year, NMFS will publish the annual Chinook salmon PSC limits for the Non-Rockfish Program CV Sector and Trawl C/P Sector in the proposed groundfish harvest specifications for the GOA after determining the amounts of Chinook salmon PSC used and whether the incentive buffer applies. Under the incentive buffer, if either Sector uses less than or equal to its proportional share of 6,500 Chinook salmon in one year, it will be able to access its base Chinook salmon PSC limit plus its proportional share of 1,000 additional Chinook salmon in the following year. The incentive buffer does not apply to the Chinook salmon PSC limit of 1,200 salmon for the Rockfish Program CV Sector for reasons described in the preamble to the proposed rule that are not repeated here (79 FR 35971, June 25, 2014).

To illustrate the implementation of the incentive buffer, the base Chinook salmon PSC limit for the Trawl C/P Sector is 3,600 (48 percent of the average annual Chinook salmon PSC limit of 7,500), and this limit will be available to the Trawl C/P Sector during the first year of implementation of Amendment 97. If, during the first year, the Trawl C/P Sector is able to maintain its use of Chinook salmon PSC to no more than 3,120 salmon (48 percent of 6,500 Chinook salmon), the incentive buffer will apply to the sector in the following year. In the following year, the Trawl C/P Sector will receive a Chinook salmon PSC limit of 4,080 Chinook salmon, which represents the sum of the sector's base PSC limit (3,600) and its proportional share (48 percent) of 1,000 Chinook salmon (480). If, during the first year, the Trawl C/P Sector's Chinook salmon use exceeds 3,120 Chinook salmon, then the incentive buffer will not apply to the sector and its Chinook salmon PSC limit in the following year will be set at its base PSC limit of 3,600 Chinook salmon.

Similarly, the proposed base PSC limit for the Non-Rockfish Program CV Sector is 2,700 (36 percent of the proposed Chinook salmon limit of 7,500) and this limit will be available to the Non-Rockfish Program CV Sector during the first year of implementation. If, during the first year, the Non-Rockfish Program CV Sector is able to maintain its use of Chinook salmon PSC to no more than 2,340 salmon (36 percent of 6,500 Chinook salmon), the incentive buffer will apply to the sector in the following year. In the following year, the Non-Rockfish Program CV Sector will receive a Chinook salmon PSC limit of 3,060 salmon, which represents the sum of the sector's base PSC limit (2,700) and its proportional share (36 percent) of 1,000 Chinook salmon (360). If, during the first year, the Non-Rockfish Program CV Sector's Chinook salmon use exceeds 2,340 Chinook salmon, then the incentive buffer will not apply to the sector and its Chinook salmon PSC limit in the following year will be set at its base PSC limit of 2,700 Chinook salmon. Additional detail on implementation of this rule and the specific Chinook salmon PSC limit applicable to each sector is provided in the preamble to the proposed rule (79 FR 35971, June 25, 2014).

Changes From the Proposed Rule

This section explains the four editorial changes in the regulatory text from the proposed rule to the final rule. The changes make minor technical clarifications in the regulatory text. Each of these revisions are made to be consistent with the uses of each of these terms in the regulatory text and do not change the intent of the rule.

The first change revises the proposed regulatory text at § 679.21(i)(3)(i) by replacing the phrase "Central and Western" with "Western and Central." This change mirrors the order in which these regulatory areas are referenced in other paragraphs in § 679.21(i). The second change adds the word "limit" and "PSC" to § 679.21(i)(3)(ii)(B); the third change adds the word "limit" to § 679.21(i)(4) and to § 679.21(i)(7)(ii); and the fourth change adds the word "salmon" to § 679.21(i)(4)(i) and (i)(4)(ii). These changes provide greater clarity to the regulations through a consistent use of terms.

Comments and Responses

NMFS received five comment letters on Amendment 97 and the proposed rule—three letters from conservation organizations and two letters from fishing industry representatives associated with GOA trawl fisheries. These letters included a total of 16 relevant comments on Amendment 97 and the proposed rule. A summary of the relevant comments, grouped by subject matter, and NMFS' responses, follows.

Comment 1: Three commenters stated that Chinook salmon PSC limits are necessary in these fisheries, the amounts selected are appropriate, and they generally support the action.

Response: NMFS acknowledges the comment and agrees that the Chinook salmon PSC limits implemented under Amendment 97 are necessary and appropriate conservation and management measures.

Comment 2: One commenter recommended that the final rule be implemented as described in the proposed rule, but also identified the need to revisit Chinook salmon PSC limits that are more restrictive than the aggregate Chinook salmon PSC limit of 7,500 salmon.

Response: Based on a review of past fishery performance provided in Sections 4.7 and 4.9 of the Analysis, a Chinook salmon PSC limit of less than 7,500 salmon would result in considerable amounts of foregone harvest in the non-pollock trawl fisheries, and relatively high costs (in terms of foregone revenue) per salmon saved. In selecting the long-term average annual Chinook salmon PSC limit of 7,500 salmon, the Council and NMFS considered a range of alternative Chinook salmon PSC limits, and selected the alternative that minimizes Chinook salmon PSC to the extent practicable. The Council and NMFS considered the management measures currently available to the GOA groundfish fleet, existing fishing patterns, the uncertainty about the extent to which the use of Chinook salmon PSC in the groundfish fisheries has an adverse effect on the Chinook salmon resource, the need to ensure that catch in the trawl fisheries contributes to the achievement of optimum yield in the groundfish fisheries, and the economic consequences of this action on Chinook salmon target fisheries and groundfish fisheries.

The Council reviews the status of Chinook salmon PSC on an annual basis, at a minimum. In addition, the Council and NMFS regularly receive information on the status of Chinook salmon stocks. The Council and NMFS will continue to review data on Chinook salmon PSC in the GOA and BSAI groundfish fisheries and the status of Chinook salmon stocks. This action does not preclude the Council and NMFS from considering new information and implementing revisions to Chinook salmon PSC limits to minimize Chinook salmon PSC in future years as necessary and appropriate.

Comment 3: One commenter noted that in the preamble to the proposed rule NMFS stated that harvests of non-pollock groundfish by trawl C/Ps in the Western and Central GOA are governed primarily by two management programs, the Amendment 80 Program and the Central GOA Rockfish Program. The commenter believed that this statement implies that trawl C/P fisheries in the GOA are managed under the cooperative management system implemented under the Amendment 80 Program. The commenter noted that trawl C/Ps operating in the GOA are subject to specific constraints, commonly known as sideboard limits, implemented by the Amendment 80 Program, but not under the cooperative management provisions implemented for the BSAI as part of the Amendment 80 Program. The commenter requested that NMFS clarify that trawl C/Ps operating in the GOA are impacted by sideboard limits established under the Amendment 80 Program, but are not directly managed by the cooperative provisions of the Amendment 80 Program that apply in the BSAI.

Response: In the proposed rule, NMFS provided extensive descriptions of how sideboard limits apply in GOA trawl fisheries for participants subject to the Amendment 80 Program, the American Fisheries Act (AFA), and the Rockfish Program. These descriptions are provided on pages 35973, 35974, 35975, and 35978 of the proposed rule. NMFS agrees that the sideboard limits in the GOA implemented by the Amendment 80 Program are but one of several management measures applicable to trawl C/Ps in the Western and Central GOA groundfish fisheries. NMFS also agrees that the trawl C/Ps operating in the GOA are not operating under the cooperative management provisions established by the Amendment 80 Program for groundfish fishing in the BSAI. While NMFS did not intend to imply that trawl C/P fisheries in the GOA are managed under the cooperative management system implemented under the Amendment 80 Program, NMFS intended to convey the point that in practice, many of the trawl C/Ps in the Western and Central GOA can or do operate in a coordinated manner similar to their operations in the BSAI. This response and the information in the Analysis correctly clarify the role of Amendment 80 and AFA sideboards in the GOA trawl fisheries, and the potential for coordination of activities in the GOA for vessels that also operate under the authority of the Amendment 80 Program in the BSAI.

Comment 4: Two commenters stated that there were several errors in the preamble to the proposed rule. These errors are:

(1) Page 35972 of the preamble states that "The FMP and regulations at § 679.21 require that catch of prohibited species must be avoided while fishing for groundfish . . ." The commenter states that, in fact, both the FMP (Section 2.1) and the regulations (§ 679.21(b)(2)(i)) state that prohibited species catch must be "minimized."

(2) Page 35973 of the preamble states that there is no directed Pacific cod fishery by trawl C/Ps in the GOA. The commenter suggests that while the amount of the Pacific cod allocation available to the Trawl C/P Sector is small, a small allocation does not preclude a Pacific cod directed fishery.

(3) Page 35974 of the preamble provides a list of Central GOA flatfish fisheries in which trawl CVs participate. The commenter states that this list is incomplete, and should include rex sole and deep-water flatfish. The commenter explains that trawl CVs retain a substantial proportion of the total retained catch of rex sole and deep-water flatfish.

(4) Page 35974 of the preamble incorrectly references specific groundfish species that are allocated to the CV sector under the Central GOA Rockfish Program. The commenter states that rougheye rockfish is not allocated to the Rockfish Program CV Sector and should not be listed, but thornyhead rockfish is allocated to the Rockfish Program CV Sector and should be listed.

(5) Page 35974 of the preamble incorrectly states that under the Central GOA Rockfish Program, directed rockfish fishing is permitted from May 1 to December 31. Directed rockfish fishing is permitted from May 1 to November 15.

(6) Page 35985 of the preamble incorrectly references the "Alaska PSD Program" as the "Alaska PSC Program."

Response: Each of these comments is addressed in order.

(1) While the commenter is correct that regulations at § 679.21(b)(2)(i) state that prohibited species catch must be "minimized to the extent practicable," other regulations within § 679.21 state that Chinook salmon PSC should be avoided. For example, § 679.21(f)(12)(ii)(B)(*3*)(*i*) requires approval of an Incentive Plan Agreement "to avoid Chinook salmon bycatch under any condition of pollock and Chinook salmon abundance in all years." The Executive Summary of the Analysis and section 3.3.8 highlight that the Council's intent for Amendment 97 is to provide incentives for Trawl CV and C/P sectors to avoid Chinook salmon PSC. This is because the primary method currently available for vessels to minimize Chinook salmon PSC is to avoid catching these species where possible. Amendment 97 is structured to be consistent with National Standard 9, which provides that ". . . measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch." Additionally, the regulatory guidelines for National Standard 9 at 50 CFR 600.350(d) state that: "The priority under this standard is first to avoid catching bycatch species where practicable."

(2) One commenter wrote that the preamble to the proposed rule states "Trawl C/Ps do not fish for Pacific cod in the Central or Western GOA." NMFS has opened Pacific cod directed fisheries for the Trawl C/P Sector in the Central GOA A and B seasons only a few times and for a limited duration of time since 2012. Typically, NMFS prohibits directed fishing for Pacific cod in the Central and Western GOA by the Trawl C/P Sector due to the small amount of Pacific cod available for harvest by the Trawl C/P Sector and the high potential for fishing effort by trawl C/Ps. While the commenter is generally correct that small allocations do not always preclude directed fishing and that NMFS may permit the Trawl C/P Sector to conduct a directed fishery for Pacific cod in the future, it is unlikely that the number of GOA Pacific cod directed fishery openings will increase in future years given the sector's small Pacific cod harvest limits and the potential for substantial fishing effort within the Trawl C/P Sector.

(3) The preamble to the proposed rule states that "Trawl CVs primarily fish for Pacific cod in the Central and Western GOA." The preamble also lists other major fisheries that CVs participate in, but this list was not intended to list every directed Trawl CV Sector fishery in the GOA. NMFS agrees that rex sole and deep-water flatfish are caught and retained by trawl CVs.

(4) NMFS agrees that rougheye rockfish was incorrectly identified as a species allocated to the Rockfish Program CV Sector. NMFS also agrees that thornyhead rockfish is allocated to the Rockfish Program CV Sector, and should have been listed instead of rougheye rockfish.

(5) NMFS agrees. Directed rockfish fishing under the Central GOA Rockfish Program is permitted from May 1 through November 15. While NMFS acknowledges the error made on page 35974, NMFS correctly identified November 15 as the last date fishing is permitted under the Central GOA Rockfish Program several other places in the preamble and specifically on pages 35982 and 35984.

(6) NMFS agrees that the reference to the "Alaska PSC Program" on page 35985 should have been to the "Alaska PSD Program."

Comment 5: One commenter stated that the implementation of Amendment 97 should be postponed until the Council and NMFS finish developing the GOA trawl bycatch management action. The proposed Amendment 97 regulations are not practicable under the present "race for fish" management structure, especially in the Non-Rockfish Program CV Sector. In lieu of postponing implementation of Amendment 97, another option would be to partially approve Amendment 97 by disapproving the portion of the action that applies a Chinook salmon PSC limit on the Non-Rockfish Program CV Sector.

Response: NMFS approved Amendment 97 to the FMP on September 3, 2014. Section 304(a)(3) of the Magnuson-Stevens Act requires that NMFS, acting on behalf of the Secretary of Commerce, disapprove a plan amendment only after specifying the applicable law with which the plan amendment is inconsistent; the nature of such inconsistencies; and recommendations concerning the actions that could be taken by the Council to conform such plan amendment to the requirements of applicable law. Before approving Amendment 97, NMFS considered these factors and concluded that Amendment 97, including the Chinook salmon PSC limit established for the Non-Rockfish Program CV Sector, is consistent with the Magnuson-Stevens Act and other applicable law.

NMFS determined that Amendment 97 minimizes Chinook salmon PSC to the extent practicable. In making this determination, NMFS considered the management measures currently applicable to the GOA groundfish fleet, including the "race for fish" that can occur in those portions of the fishery that are not managed under a form of catch share program with exclusive harvest privileges for specific participants. NMFS identified the potential impacts of this action in the Notice of Availability for Amendment 97 (79 FR 32525, June 5, 2014), the preamble to the proposed rule (79 FR 35971, June 25, 2014), and in detail in Sections 4.7, 4.8, and 4.9 of the Analysis prepared for this action. NMFS articulated its reasons for approval of Amendment 97 in the proposed rule, and provided the Council's and the agency's explanations for why it is consistent with the Magnuson Stevens Act and other applicable law. NMFS considered the public comments received on the proposed rule and Amendment 97 prior to its approval of Amendment 97, and none of these comments caused NMFS to change the conclusions reached in the proposed rule. NMFS approved Amendment 97 because there is a rational basis for the Chinook salmon PSC limits for each Sector, the limits achieve the goals of the action by minimizing bycatch to the extent practicable, each Sector has the ability to comply with that Sector's PSC limit, and that new tools developed for this action would assist in achieving the PSC limits. The Council and NMFS recognized that Chinook salmon PSC limits may result in groundfish closures earlier in the season, attendant reductions in target groundfish catches when the seasonal PSC limit is reached, and foregone groundfish revenue for sectors that are unable to fully prosecute TAC limits. Participants in the groundfish fisheries could also incur

additional costs associated with actions taken to avoid catch of Chinook salmon PSC.

The Council and NMFS considered that although the proposed Chinook salmon PSC limits may result in closures earlier in the season and an attendant reduction in target groundfish catches if a Chinook salmon PSC limit is reached prior to the harvest of the TAC, the frequency and extent of early season closures and the effects of such closures will vary across the three sectors of the fleet. For example, participants in the Trawl C/P and Rockfish Program CV Sectors have experience in coordinating some of their activities through private cooperative agreements and may be willing to change fishing behavior in response to the imposition of Chinook salmon PSC limits. If sector participants are successful in taking action to control Chinook salmon PSC to avoid a closure, gross revenues may not be negatively impacted. NMFS' management experience in the trawl fisheries that operate under catch share programs, or under informal cooperation agreements developed without a regulated catch share program, indicates that PSC use in the groundfish trawl fisheries has been reduced through increased communication among industry participants and coordination of fishing activities and effort. Section 4.4 of the Analysis reviewed potential measures that could be adopted by participants to reduce Chinook salmon PSC and the factors that are likely to affect the willingness of participants to adopt these measures.

The Analysis in Sections 4.7 and 4.9 considered potential changes in trawl sector revenues, and changes in costs resulting from the fleets' altered fishing behavior to minimize Chinook salmon PSC. However, it is not possible to directly quantify these effects with available information. The effects on communities are summarized in Section 4.7.5 of the Analysis. The Chinook salmon PSC limits implemented by this final rule balance the potential financial effects of reduced groundfish harvests and increased costs to groundfish fleets, the benefits of minimizing Chinook salmon PSC to the extent practicable, the potential benefits that may occur from reducing a known source of mortality to the Chinook salmon stocks, and the potential additional harvest opportunities that may accrue to other users of the Chinook salmon resource.

As described in the preamble to the proposed rule and in Sections 4.7 and 4.9 of the Analysis, the Council and NMFS considered the potential impact to the Non-Rockfish Program CV Sector, and determined that the Chinook salmon PSC limit for this sector is practicable. The base Chinook salmon PSC limit for this sector is slightly higher than the Sector's average Chinook salmon PSC between 2007 and 2013. Additionally, it is likely that in most years, the Non-Rockfish Program CV Sector will receive a roll over of Chinook salmon PSC from the Rockfish Program CV Sector. Also, this action includes two measures that may increase the annual amount of Chinook salmon PSC available for this sector, thereby improving the practicability of the Chinook salmon PCS limit for the Non-Rockfish Program CV Sector. First, this action establishes an incentive buffer. This acts as an incentive for the Non-Rockfish Program CV Sector to keep Chinook salmon bycatch well below its base PSC limit in order to provide it with a slightly higher Chinook salmon PSC limit that may be needed in an unusual year of Chinook salmon migration patterns or unanticipated higher abundance that may make it difficult to avoid Chinook salmon PSC. Second, this action provides for a reallocation of unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector. This reallocation recognizes that the Rockfish Program CV Sector will likely have unused Chinook salmon PSC available by October 1 in most years. Therefore, in most years, the reallocation of some Chinook salmon PSC limit from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector is expected to provide additional harvest opportunities. The Council and NMFS also recognized that most of the vessels in the Non-Rockfish Program Sector are in cooperatives formed under the Central GOA Rockfish Program, which mutually benefit from these potential reallocations. Many participants in the Non-Rockfish Program CV sector also participate in the Rockfish Program CV Sector, and routinely cooperate to manage allocations or minimize Chinook salmon bycatch. Recognizing that not all CVs making landings in the GOA participate in the Rockfish Program, NMFS believes it may be in the interest of the operations that are in the Rockfish Program CV Sector to continue some level of cooperation to minimize Chinook salmon bycatch even after checking out of the Rockfish Program. Thus, these sector reallocations enhance the practicability of Amendment 97 for the Non-Rockfish Program CV Sector. The reallocations between the Rockfish and Non-Rockfish Program CV Sectors are expected to reduce the possibility of idling seafood processing capacity, which could have negative implications for harvesters, processors, and fishery-dependent communities.

For the foregoing reasons, NMFS approved Amendment 97 and found no basis for full or partial disapproval of the Amendment. The MSA does not provide NMFS with the authority to postpone implementation of an approved FMP amendment and postponing the implementation of Amendment 97 is not warranted given its consistency with the MSA. The Council considered delaying the implementation of Amendment 97 until the implementation of a GOA trawl bycatch management action currently under consideration by the Council. The GOA trawl bycatch management action under development by the Council could include the components of a catch share program. Based on past experience with trawl catch share programs (*e.g.*, the Central GOA Rockfish Program), a catch share program could provide additional flexibility to the GOA trawl fleet, including vessels in the Western and Central GOA non-pollock trawl fishery, to adapt their operations to minimize the use of Chinook salmon PSC. (For an example of the ability for catch share programs to minimize PSC use, see Sections 4.7.1 and 4.9 of the Analysis.) The Council decided to not delay the implementation of Amendment 97 for several reasons. First, the Council determined that a catch share program is not necessary for the Sectors to harvest groundfish TACs under the Chinook salmon PSC limits. Second, the purpose and need for this action is to implement an annual Chinook salmon PSC limit for the non-pollock trawl fisheries, not to implement broader catch share management in the GOA trawl fisheries. Delaying this action to await another action with a separate and distinct purpose and need is contrary to the purpose and need for this action. Third, the GOA trawl catch share program currently under consideration by the Council may not be recommended by the Council or implemented by NMFS. Delaying this action in anticipation of another future action is inconsistent with the purpose and need for this action. Finally, even if a GOA trawl catch share program is recommended by the Council and approved and implemented by NMFS, it would not be effective until 2017 at the earliest. This action will be implemented in 2015, substantially sooner than if implementation were delayed until a GOA trawl catch share program became effective. This action

results in a more timely implementation of an annual Chinook salmon PSC limit for the non-pollock fisheries that is responsive to the purpose and need of this action. Overall, the Council considered and rejected delaying the implementation of this action because the analysis indicates that Chinook salmon PSC can be controlled and potentially reduced without the implementation of a GOA trawl catch share program.

Comment 6: One commenter stated that the goal of avoiding exceedance of the annual Chinook salmon ITS of 40,000 salmon has already been achieved without Amendment 97 due to the combination of the Chinook salmon PSC limit of 25,000 in place for the GOA pollock fishery under Amendment 93 and likely Chinook salmon PSC use in the non-pollock trawl fishery. When the highest recent use of Chinook salmon PSC of 10,877 salmon (in 2010) from the non-pollock trawl fishery is added to the Chinook salmon PSC limit of 25,000 for the GOA pollock fishery, the total Chinook salmon PSC could be as high as approximately 36,000 salmon. That amount is below the Chinook salmon ITS level of 40,000 Chinook salmon. Because Chinook salmon PSC is unlikely to exceed 40,000, the stringent Chinook salmon PSC limits established by this action are not necessary.

Response: As stated earlier in this preamble, and in the preamble to the proposed rule, this action has three goals. The first of these goals is to avoid exceeding the annual threshold of 40,000 Chinook salmon identified in the ITS. With implementation of this action, NMFS expects that the combined annual Chinook salmon PSC for non-pollock and pollock trawl fisheries in the Western and Central GOA together with Chinook salmon PSC in other areas of the GOA will not substantially exceed 32,500 Chinook salmon on a long-term average annual basis. The Western and Central GOA Chinook salmon PSC limits established for the pollock trawl fishery under Amendment 93 (77 FR 42629, July 20, 2012) and for the non-pollock trawl fisheries under this action will effectively limit Chinook salmon PSC to a long-term average annual amount of 32,500 Chinook salmon. An additional *de minimus* amount of Chinook salmon PSC occurs in trawl fisheries in the Eastern GOA and non-trawl fisheries in the GOA that are not subject to a Chinook salmon PSC limit (see Section 1.2 of the Analysis for additional detail). Therefore, upon implementation of this rule, the combined Chinook salmon PSC from all sources will be below 40,000 Chinook salmon in all future years and the first goal of Amemdment 97 will be achieved.

The Council and NMFS recognize that the Chinook salmon PSC limits established by Amendments 93 and 97 are below the ITS of 40,000 Chinook salmon and that Chinook salmon PSC may be less than 40,000 in most years, even if there were no Chinook salmon PSC limits established in the non-pollock trawl fisheries. However, without Chinook salmon PSC limits in the non-pollock trawl fisheries, NMFS could not ensure that the first goal of Amendment 97 would be met in all years, particularly during years of unusually high Chinook salmon PSC use in the non-pollock trawl fisheries. NMFS agrees that other Chinook salmon PSC caps could have been chosen, such as a long-term average annual Chinook salmon PSC limit of 10,000 salmon, which would maintain total Chinook salmon PSC in the GOA below 40,000 salmon. However, the Council did not recommend these alternative Chinook salmon PSC limits because the second goal of this action is "to minimize Chinook salmon bycatch to the extent practicable, consistent with the Magnuson-Stevens Act and National Standard 9." This second goal of the action is intended to establish Chinook salmon PSC limits that are as low as practicable, not to implement regulations that allow up to 40,000 Chinook salmon to be used as PSC even if a lower Chinook salmon PSC limit is practicable. For the reasons explained in the response to Comment 5, the Council and NMFS have determined that the Chinook salmon PSC limits implemented by this action are practicable.

Comment 7: One commenter stated that unlike Bering Sea Chinook salmon bycatch, most of the Chinook salmon PSC in the Western and Central GOA non-pollock trawl fisheries originate outside the State of Alaska, are exploited at the juvenile life stage (not at the stage that they would be harvested by other users), and may be produced in hatcheries and are not from wild spawning systems. The commenter cited research that indicates that less than a third of the Chinook salmon taken as bycatch in GOA non-pollock fisheries are Alaskan, from Northwest GOA or Southeast Alaska coastal streams. The best available science suggests that there is no link between Chinook salmon PSC use in the non-pollock trawl fisheries in the GOA and the status of Alaskan Chinook salmon stocks.

Response: Genetic data from samples of Chinook salmon PSC taken in the GOA trawl fisheries reveal that this PSC may include Chinook salmon that originate from British Columbia, the U.S. West Coast (*i.e.*, California, Idaho, Oregon, and Washington), Alaska, and Asia. Overall, the amount of Chinook salmon PSC used in the GOA non-trawl fisheries represents a small proportion of the known removals from the Chinook salmon populations in Alaska, British Columbia, and the U.S. West Coast, as described in Section 3.3 of the Analysis. Section 3.3 of the Analysis also indicates that there is uncertainty in the potential link between reductions in Chinook salmon mortality from the trawl fishery and potential beneficial impacts to spawning populations and recruitment of adult Chinook salmon originating in Alaska. Therefore, reductions in the amount of Chinook salmon PSC taken in the non-pollock groundfish trawl fisheries are not expected to result in substantial beneficial changes in the Chinook salmon populations or the amount available to other Chinook salmon resource users. Given the information available at this time, the Chinook salmon PSC limits imposed under this action may not have a quantifiable direct positive impact on Chinook salmon returns to river systems in Alaska. Additionally, the available data indicate that Chinook salmon PSC in the non-pollock fishery includes Chinook salmon from hatchery enhanced stocks from river systems in Alaska and outside of Alaska.

The presence of Chinook salmon originating from British Columbia and the U.S. West Coast, in addition to Alaska, does not alleviate the need for PSC limits in the GOA trawl groundfish fisheries. Alaska groundfish fisheries must comply with ITS requirements for ESA-listed Chinook salmon species and minimize Chinook salmon PSC in the non-pollock trawl fisheries to the extent practicable under the Magnuson-Stevens Act. The goal of Amendment 97 is not to have specific impacts on specific fishery stocks, but to meet the three goals described in the purpose and need for this action and earlier in this preamble. These goals are without regard for the origin of the stock. While the Chinook salmon PSC limits imposed by Amendment 97 may not have a significant beneficial impact on Chinook salmon stocks or spawning escapement, the Council and NMFS determined that these PSC limits will not have negative impacts on Chinook salmon populations or the amount of spawning escapement.

Comment 8: One commenter stated that the PSC limit of 7,500 Chinook salmon does not address the subdivision of the cap between the three sectors and its effect. Between 2007 and 2013, the

proposed limit of 2,700 salmon for the Non-Rockfish Program CV Sector has been exceeded three times in the last 7 years and the three times that the limit has been exceeded occurred in the last 4 years (2010, 2011, 2013). These higher years of PSC coincide with increased abundances of British Columbia and Pacific Northwest Chinook salmon. The limit for the Non-Rockfish Program CV Sector is too low and not responsive to changing conditions of Chinook salmon abundance.

Response: NMFS acknowledged in the proposed rule that in some years, the annual Chinook salmon PSC limits for the three Sectors could constrain groundfish harvests and impose costs on participants in the non-pollock trawl fisheries. However, the proposed rule also explained why the PSC limits for each Sector were reasonable and consistent with the Magnuson-Stevens Act. For example, on page 35983, the proposed rule explains that the Non-Rockfish Program CV Sector allocation of 2,700 Chinook salmon is set at an amount that is 8 percent greater than the 7-year average from 2007 to 2013 for that sector. In addition to an allocation that exceeds the 7-year average, this action establishes an incentive buffer and provides for a reallocation of unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector as described in response to Comment 5. Furthermore, the PSC limits imposed by the action were derived from annual average Chinook salmon PSC usage during a period when there were no regulatory incentives for the Sectors to minimize their catch of Chinook salmon.

Although the commenter draws a connection between the current high abundance of British Columbia and U.S. West Coast Chinook salmon and high Chinook salmon PSC use in the Non-Rockfish Program CV Sector, Section 3.3.2.2 of the Analysis indicates that a relatively high abundance of a specific stock or group of stocks does not necessarily result in higher Chinook salmon PSC. Therefore, the comment that the Chinook salmon PSC limit does not consider the abundance of Chinook salmon is not correct. The Council and NMFS considered Chinook salmon abundance when considering the Chinook salmon PSC limit, but the best available information does not indicate that establishing a higher Chinook salmon PSC limit based on abundance is necessary or appropriate.

Comment 9: One commenter stated that the proposed rule does not add any new tools for members of the fishing industry to achieve the new PSC limits.

Response: This action does provide additional tools for members of the industry to achieve the new PSC limits. This action includes regulatory provisions that establish an incentive buffer and allow reallocations of the unused portion of a Chinook salmon PSC limit to the Non-Rockfish Program CV Sector from the Rockfish Program CV Sector to provide flexibility for utilizing available PSC limits within or between these sectors. As previously discussed in this final rule, the Council and NMFS have determined that these tools, in addition to the other features of Amendment 97, are sufficient to minimize the catch of Chinook salmon to the extent practicable in the GOA non-pollock trawl fisheries. The ability of the three sectors to adapt to the PSC limits with the available tools and those tools that would be provided under this program are discussed further in the response to Comment 11.

Comment 10: One commenter noted that this action provides incentives for reducing PSC of Chinook salmon, particularly through application of an incentive buffer. Another commenter noted that the incentive buffer helps provide some means for adjusting to Chinook salmon PSC limits but provides limited relief.

Response: NMFS agrees that the incentive buffer incorporated as part of this action will provide incentives to minimize Chinook salmon PSC during all years. The incentive buffer is designed to provide some additional flexibility for dealing with variability in Chinook salmon PSC in certain years, but NMFS agrees that the incentive buffer has limitations and may not offset all potential costs of compliance with the Chinook salmon PSC limits established by this rule during years of high Chinook salmon encounters. For the reasons stated in the responses to Comments 5 and 11, not all costs of PSC limits were practicable to offset while achieving the desired PSC reductions.

Comment 11: One commenter stated that the amount of revenue loss for non-pollock groundfish trawl fisheries could be as much as $14 million, as expressed at the wholesale level, and would have indirect impacts on the community of Kodiak. The amount of revenue loss for the C/P sector could be as much as $28 million.

Response: Section 4.7 of the Analysis concludes that the potential economic impact on a sector, processor, or community that may result from this action will vary depending on the specific sector, time of closure, and other factors. The Analysis also provides a range of estimates for the maximum amount of revenue that may be forgone from the Non-Rockfish Program CV and Trawl C/P Sectors under this action, and a discussion of the reasons that actual forgone revenues and costs under this alternative are likely to be less than these maximum amounts of forgone revenue. These forgone revenue estimates are based on retrospective amounts of groundfish harvest reduction for the Chinook salmon PSC limits as applied to fishery performance in each year from 2007 through 2011. The estimates of $14 million for the Non-Rockfish Program CV Sector and $28 million for the Trawl C/P Sector in wholesale value, as cited in public comment, are based on a single year where the difference between the PSC limit and observed catch (converted to average ex-vessel revenues) for the year is at the maximum that would have been observed during that time interval. The lower end of the range of maximum foregone wholesale revenue from the action for the Non-Rockfish Program CV Sector was $5.9 million. The lower end of the range of maximum foregone wholesale revenue from the action for the Trawl C/P Sector was $5 million. The Analysis also includes a qualitative discussion of how the lowest estimate of maximum forgone revenue for that year may be mitigated by actions that the Non-Rockfish Program CV, Rockfish Program CV, and Trawl C/P Sectors may take to avoid fishing locations with high Chinook salmon PSC and reduce potential losses in wholesale revenue.

The Council and NMFS recognized that, in some years, the PSC limits implemented by Amendment 97 could constrain non-pollock groundfish fishing opportunities, resulting in foregone harvest and revenue, but determined that the action also mitigates these costs to participants in the fishery to some extent. As described in the preamble to the proposed rule, this action implements Chinook salmon PSC limits that consider the historic use of Chinook salmon PSC by the three sectors during a period of time when no Chinook salmon PSC limits were in effect and no regulatory incentives existed for the sectors to minimize their Chinook salmon PSC. The Chinook salmon PSC limits established for all three sectors are larger than each sector's historic average Chinook salmon PSC, as explained in the preamble to the proposed rule on page 35979. The Council and NMFS determined that these higher-than-average Chinook salmon PSC limits, coupled with regulatory incentives to keep Chinook salmon PSC as low as possible so that the limits are not

reached before harvest of non-pollock groundfish allocations has occurred, should result in Chinook salmon PSC at levels below average historic use in most years.

Section 4.7 concludes that the potential impact of the Chinook salmon PSC limits can be mitigated by specific actions taken by participants in the sectors. For example, the Trawl C/P Sector and Rockfish Program CV Sector participants have experience in coordinating some of their activities through private cooperative agreements and may be willing to change fishing behavior in response to PSC limits. If sector participants are successful in taking action to control Chinook salmon PSC use to avoid a closure, gross revenues may not be negatively impacted. NMFS' management experience in the trawl fisheries that operate under catch share programs and voluntary agreements indicates that PSC use in the groundfish fisheries has been reduced through increased communication among industry participants and coordination of fishing activities and effort.

While participants in the Non-Rockfish Program CV Sector are not currently operating under cooperative agreements, participants in this sector are not precluded by regulation from forming voluntary agreements to minimize Chinook salmon or other PSC. Although voluntary agreements among all participants in a sector can be more difficult to establish than voluntary agreements among some participants in a sector under a catch share program, the Council and NMFS expect that vessels in the Non-Rockfish Program CV Sector will be able to modify fishing practices to minimize Chinook salmon PSC and mitigate the potential adverse economic impacts. As explained in the preamble to the proposed rule on page 35974 and in the Analysis at section 4.4.10, in 2014, 56 percent of the participants in the Non-Rockfish Program CV Sector who operate in the Central GOA are participants in the Rockfish Program CV Sector and have formed cooperative agreements under the Central GOA Rockfish Program.

Comment 12: One commenter stated that in the GOA pollock trawl fishery, Chinook salmon PSC estimates are derived from a census from observed vessels whereas in the non-pollock trawl fisheries, Chinook salmon PSC estimates will be based on samples taken by observers at sea. Due to the sampling design applied to the non-pollock fisheries, small samples from a small number of vessels could result in Chinook salmon PSC estimates for a sector that are derived from a single vessel's Chinook salmon PSC which may not be representative of the Chinook salmon PSC by other vessels in that sector. The commenter asserted that NMFS should modify observer sampling protocols in the non-pollock trawl fisheries and employ a census method on all observed vessels.

Response: As explained in Section 5 of the Analysis, there are operational differences between the pollock and non-pollock fisheries that prevent the use of a census onboard observed vessels in the GOA non-pollock trawl fisheries. Currently, NMFS does not have the monitoring infrastructure needed to use a census for Chinook salmon PSC onboard observed CVs in the GOA non-pollock trawl fisheries. A census should account for all salmon caught by CVs in the non-pollock trawl fisheries and would require changes to observer coverage on GOA non-pollock trawl CVs, and additional infrastructure at processors receiving deliveries from these vessels. Without these infrastructure changes, using a census of Chinook salmon PSC for the GOA non-pollock trawl CV sectors is likely to produce biased counts of salmon PSC, including Chinook salmon PSC. Therefore, NMFS will use basket sampling at sea from a random selection of fishing trips to account for Chinook salmon PSC by GOA non-pollock trawl CVs.

NMFS acknowledges that Chinook salmon is a relatively uncommon species to be observed in trawl fisheries and is characterized by many small and zero counts encountered in at-sea samples with occasional large counts encountered in at-sea samples. NMFS has documented the possibility that small sample sizes could impact the estimates of the sector-level PSC used in a given season or year. This is discussed in detail in Section 5 of the Analysis and in the preamble to the proposed rule. NMFS agrees that there is a possibility that a Chinook salmon PSC limit could be reached based on an estimate derived from a few at-sea samples from a small number of vessels. The Council and NMFS considered all reasonable alternatives for producing in-season estimates of Chinook salmon PSC in non-pollock trawl fisheries for Amendment 97. The Analysis addresses each of these PSC accounting alternatives at Section 5.2.2. Each alternative included trade-offs in administrative and industry cost, practicality, and data quality. For example, increasing observer coverage in the Non-Rockfish CV Sector so that each trip is observed was considered to be impracticable at this time and without a catch share program that included Chinook salmon PSC. It would also impose significant costs that could negatively impact a number of these operations. The analysis also considered accounting for retained catch at the point of delivery, but this approach may provide additional incentives for vessels to discard salmon PSC at sea. The selected approach of basket sampling at sea, from a random selection of fishing trips, represented the optimum balance of cost and data reliability for the CV sectors in the GOA trawl fishery.

Comment 13: Section 4.8 of the Analysis states that NMFS would not have in place the requisite capacity to take systematic genetic samples of retained salmon in accordance with sampling protocols that have been implemented in the Bering Sea pollock fishery, and that while a different sampling method could be considered for the non-pollock trawl fisheries in the GOA, such an approach has yet to be investigated. NMFS has revised the genetic sampling methods for the pollock fishery in the GOA since the Council recommended Amendment 97 in June 2013. A genetic sampling approach similar to that currently used in the GOA pollock fishery should be investigated and, if appropriate, adopted for the non-pollock trawl fisheries in the GOA.

Response: In the Bering Sea, all salmon caught by CVs are sampled through a census of each salmon delivered to a processor. For each Chinook salmon in the census, observers collect genetic samples from every 1 in 10 of those Chinook salmon. Section 5.3.1 of the Analysis describes the Bering Sea genetic sampling protocol in greater detail, and explains that is not feasible to apply that census-based sampling to the non-pollock trawl fisheries in the GOA given the specific operational characteristics of the GOA non-pollock fishery, vessel layouts, and the lack of other monitoring requirements necessary to verify that a complete census of salmon PSC has occurred on these vessels. The same feasibility problems for use of a census for salmon PSC accounting in the GOA non-pollock groundfish fishery would also apply if the census data were to be used as a basis for collecting genetic data samples from the census. Any bias created in the salmon census data would also transfer to, and create accuracy issues with, the genetic data. These lessons have been applied to GOA pollock fishery.

The Alaska Fisheries Science Center has assessed biological samples from Chinook salmon collected by observers in the GOA trawl fisheries for several years, and the resolution of that data by

region of stock origin is steadily improving. In 2014, NMFS improved the sampling protocol in the GOA pollock fishery to address concerns about NMFS's ability to verify that salmon were retained on unobserved trips. One approach for accounting of all salmon caught on a trip is to conduct a census. A census for salmon in the trawl fishery would count each individual salmon caught by a vessel. NMFS replaced the method used in the GOA pollock fishery, which attempted to census salmon from all pollock deliveries, to a method that samples salmon only on deliveries from observed trips. This change is anticipated to improve data quality by reducing the risk of bias on unobserved trips and substantially increasing the number of genetic samples that can be collected. Section 5.3.1 of the Analysis describes the operational differences between the pollock and non-pollock fisheries that make the translation of sampling protocols from the pollock fishery to the non-pollock fishery challenging. However, NMFS will continue to investigate optimal methods for sampling Chinook salmon PSC in the non-pollock fishery and apply the best available techniques as practicable.

Comment 14: One commenter wrote that Section 5 of the Analysis states that if a sector's Chinook salmon PSC limit is less than approximately 1,500 Chinook salmon per week, it is difficult to adequately manage the Chinook salmon PSC limit. Given this, NMFS will not be able to effectively manage the Chinook salmon PSC limits, particularly for the Non-Rockfish Program CV Sector, or the small amount of Chinook salmon that may be reallocated to the Non-Rockfish Program CV Sector from the Rockfish Program CV Sector. Management is not adequately precise to manage the Non-Rockfish Program CV Sector to allow the sector to fully harvest its target species.

Response: Section 5.2.1.1 of the Analysis concludes that for some sectors, the timeliness and quality of the data available to detect small changes in the amount of Chinook salmon PSC during a weekly period constrain precision and accuracy for inseason PSC accounting. For the GOA non-pollock trawl fisheries, NMFS considers Chinook salmon PSC limits that are less than the historically highest weekly rate for the managed fishery to be too small to manage inseason because a PSC limit similar to that rate could be reached in one week. The Analysis states that for the GOA non-pollock trawl CV and C/P sectors, these amounts are about 1,500 Chinook salmon PSC a week for each sector in the Central GOA, and 1,000 Chinook salmon PSC a week for the C/P sector and 100 Chinook salmon PSC a week for the CV sector in the Western GOA. However, this action separates the CV sector into the Non-Rockfish Program CV Sector and the Rockfish Program CV Sector. Separate Chinook salmon PSC limits for these CV sectors decreases the weekly rate that NMFS would consider too small to manage. The Non-Rockfish Program CV Sector's annual Chinook salmon PSC limit is 2,700 salmon. From 2003 through 2013, the Non-Rockfish Program CV Sector has not reached a rate of 1,500 Chinook salmon PSC per week in the combined Western and Central GOA and the highest weekly Chinook salmon PSC use rate is 1,223 Chinook salmon in the combined Western and Central GOA. This highest weekly rate for the Non-Rockfish Program CV Sector is lower than the weekly rate for this sector in the combined Western and Central GOA. This rate is less than half of the 2,700 Chinook salmon limit and would allow time for NMFS management to respond with a closure notice if required. Also, from 2003 through 2012, this rate has only been reached once during 346 weeks of fishing by this sector. The next highest weekly rate is considerably lower at 824 Chinook salmon. The Amendment 97 PSC limits established for the three sectors are sufficient amounts for effective inseason management. NMFS also can effectively manage the PSC amounts that may be available to the Non-Rockfish Program CV Sector under the incentive buffer and the reallocation provisions.

Comment 15: One commenter stated that salmon retention requirements are useful, but could go further by requiring 100 percent observer coverage to avoid inaccurate estimates of Chinook salmon based on extrapolations from observed trips.

Response: Salmon retention requirements implemented by this action are not intended to and will not be used to estimate Chinook salmon PSC by NMFS, and therefore have no impact on how NMFS will manage the fishery. The salmon retention requirements are intended to assist industry efforts to track salmon delivered to shore, potentially for decision making within a sector, and for opportunistic collection of biological data for genetic analysis. One hundred percent, or full observer coverage for each haul or trip, is not necessary to obtain accurate PSC estimates of Chinook salmon within the non-pollock trawl sectors. As explained in Section 5.2 of the Analysis, NMFS has implemented 100 percent observer coverage in catch share programs that include transferable PSC limits allocated to a specific entity such a cooperative. Under these catch share programs, increased monitoring has been necessary to monitor the use of PSC and to enforce the regulatory provision that prohibits a specific entity with a transferrable Chinook PSC limit from exceeding its limit. The Council and NMFS did consider an option to allocate Chinook salmon PSC limits to Rockfish Program entities, which would have resulted in NMFS recommending increased monitoring requirements. However, that alternative was rejected for reasons described in Section 2.6 of the Analysis.

Under this action, Chinook salmon PSC limits will not be allocated to a specific entity. Therefore, NMFS will monitor PSC limits using observer data collected under the restructured Observer Program (77 FR 70062, November 21, 2012). One of the primary goals of the restructured Observer Program was to reduce the potential for bias in observer data and therefore improve catch estimates of groundfish and PSC, including salmon PSC. The restructured Observer Program deploys observers through a scientific sampling plan and has resulted in observer data that is representative of the GOA groundfish fisheries, including the trawl fisheries.

Comment 16: One commenter stated that the preamble suggests that improvements in salmon reporting through the eLandings reporting system may assist in tracking and cooperatively managing Chinook salmon PSC limits for the trawl CV sectors delivering to shoreside processors or SFPs. This improved tracking and cooperative management is practicable only in the Rockfish Program CV Sector. The Non-Rockfish Program CV Sector is not likely to be able to voluntarily control or organize fleet behavior to adjust fishing patterns for avoiding Chinook salmon PSC, so improved eLanding data is irrelevant for this sector.

Response: While NMFS agrees that the Rockfish Program CV Sector is more likely than the Non-Rockfish Program CV Sector to be able to take advantage of information on Chinook salmon PSC from the eLandings reporting system to cooperatively manage its Chinook salmon PSC limit, the information provided by the eLandings reporting system also may have utility for the participants in the Non-Rockfish Program CV Sector regardless of whether all participants in that sector are fishing cooperatively under voluntary agreements. Many participants in the Non-Rockfish

Program CV Sector are also particiPnts in the Rockfish Program CV Sector and participants in the Non-Rockfish Program CV Sector are not precluded from forming voluntary agreements to coordinate fishing patterns and use the data from the eLandings reporting system to minimize Chinook salmon or other PSC.

Classification

The Administrator, Alaska Region, NMFS, determined that this final rule is consistent with the FMP, including Amendment 97, the Magnuson-Stevens Act, the AFA, and other applicable laws. After considering the comments received on the amendment and the proposed rule, the Secretary of Commerce approved Amendment 97 on September 3, 2014.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a Final Regulatory Flexibility Analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The preamble to the proposed rule and this final rule serve as the small entity compliance guide. This action does not require any additional compliance from small entities that is not described in the preambles. Copies of the proposed rule and this final rule are available from NMFS at the following Web site: *http://alaskafisheries.noaa.gov.*

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866.

Final Regulatory Flexibility Analysis

Section 604 of the Regulatory Flexibility Act requires that, when an agency promulgates a final rule under section 553 of Title 5 of the United States Code, after being required by that section, or any other law, to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis (FRFA). Section 604 describes the required contents of a FRFA: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

Need for and Objectives of the Rule

A statement of the need for, and objectives of, the rule is contained in the preamble to this final rule and is not repeated here.

Public and Chief Counsel for Advocacy Comments on the Proposed Rule

NMFS published a proposed rule on June 25, 2014 (79 FR 35971). An initial regulatory flexibility analysis (IRFA) was prepared and summarized in the "Classification" section of the preamble to the proposed rule. The comment period closed on July 25, 2014. NMFS received five public comment letters, containing 16 separate comments on Amendment 97 and the proposed rule. These comments did not address the IRFA or the economic impacts of the rule upon small entities. The Chief Counsel for Advocacy of the Small Business Administration did not file any comments on the proposed rule.

Number and Description of Small Entities Regulated by the Action

This analysis considers the participants in the Western and Central GOA non-pollock trawl fisheries in 2012, which is the most recent year for which size, revenue, and affiliation data were available. The Small Business Administration (SBA) has defined a small entity in the finfish harvesting sector as an entity with annual gross receipts less than $20.5 million.

In 2012, 19 trawl C/Ps participated in the Trawl C/P Sector. Only one of the C/Ps in the Trawl C/P Sector is classified as a small entity. All other members of the Trawl C/P Sector are affiliated through Amendment 80 and/or Central GOA Rockfish Program cooperatives. The combined annual gross receipts of these cooperatives total more than $20.5 million. Therefore, the remaining participants in the Trawl C/P Sector are not classified as small entities due to their affiliations in cooperatives with annual gross receipts exceeding the small entity threshold of $20.5 million.

In 2012, the Trawl CV Sector was composed of 70 active vessels. These 70 vessels include all participants in the Rockfish Program CV Sector and the Non-Rockfish Program CV Sector. Fifty-four of these trawl CVs are classified as small entities. These 54 vessels classified as small entities include 31 vessels that were not affiliated with any cooperative, and 23 vessels that were affiliated with cooperatives (*i.e.*, AFA, Amendment 80, Central GOA Rockfish Program) that generated less than $20.5 million in combined annual gross revenues.

A total of 64 shoreside processors and SFPs may receive landings of groundfish from the GOA non-pollock trawl fisheries. Of these 64 processing operations, as many as 53 may be small entities. Seafood processors are categorized as small or large entities based upon estimated seafood employees by company. NMFS does not maintain records on seafood processing employment for each firm or company, thus, these estimates of small entities are based on the best commercially available data.

The estimate in the number of small entities reported in this FRFA have been updated from those in the IRFA to reflect recent revisions to SBA thresholds for identifying small entities businesses primarily involved in finfish harvesting from $19 million to $20.5 million (79 FR 33647, June 12, 2014). These revisions to SBA thresholds increased the estimated number of small entities by four compared to the estimate provided in the IRFA. The four additional small entities are trawl CVs.

Recordkeeping and Reporting Requirements

No new recordkeeping and reporting requirements have been identified for this action.

Description of Significant Alternatives to the Final Action That Minimize Adverse Impacts on Small Entities

A FRFA must describe the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities was rejected. This action is the Council's final preferred alternative, as defined in Section 2.4 of the Analysis.

No alternatives or options that were omitted from the preferred alternative, or alternatives that were considered but not advanced, would have accomplished the action's objectives while reducing the potential economic impact on small entities relative to the preferred alternative. These other alternatives considered included defining the GOA trawl sectors differently, applying a different historic time period for establishing Chinook salmon PSC limits instead of the time interval selected, establishing a different long-term average Chinook salmon PSC, and allocating the Chinook salmon PSC to the GOA trawl sectors by smaller management areas or in different proportions than hose selected. The Council did not adopt a separate Chinook salmon PSC apportionment for small entities because a shared hard cap across all entities within each operational type sector promotes information sharing and collective action in avoiding Chinook salmon PSC, which is beneficial to all entities.

The economic impact on directly regulated small entities is the extent to which entities incur additional costs in the avoidance of Chinook salmon PSC, or are limited in their groundfish harvest by a closure due to the Chinook salmon PSC limit being reached. Operational costs could arise from changing the location of fishing or from suspending fishing when relatively high Chinook salmon PSC occurs. In addition, it is possible that some costs may be incurred in attempting to determine Chinook salmon PSC rates in order to decide whether Chinook salmon avoidance measures are needed. These potential impacts are not expected to more significantly and adversely impact small entities relative to non-small entities. It may be the case that entities with cooperative affiliations have access to a broader array of information where spatial salmon avoidance is concerned, but many of the directly regulated small entities are also members of cooperatives. Moreover, under a shared Chinook salmon PSC limit, information sharing across the entire fleet is in the best interest of each entity, if the limit appears to be constraining. Finally, while non-small entities may have greater access to funds to invest in salmon excluding technologies—should they be developed and widely adopted—the small entities would benefit from the PSC reductions achieved by other vessels, as they would decrease the probability of fishery closure.

Tribal Consultation

Executive Order (E.O.) 13175 of November 6, 2000 (25 U.S.C. 450 note), the Executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), and the American Indian and Alaska Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of NMFS in matters affecting tribal interests. Section 161 of Public Law 108–199 (188 Stat. 452), as amended by section 518 of Public Law 109–447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations.

NMFS is obligated to consult and coordinate with federally recognized tribal governments and Alaska Native Claims Settlement Act (ANCSA) regional and village corporations on a government-to-government basis pursuant to E.O. 13175, which establishes several requirements for NMFS, including (1) to provide regular and meaningful consultation and collaboration with Indian tribal governments and Alaska Native corporations in the development of Federal regulatory practices that significantly or uniquely affect their communities, (2) to reduce the imposition of unfunded mandates on Indian tribal governments, and (3) to streamline the applications process for and increase the availability of waivers to Indian tribal governments. This Executive Order requires Federal agencies to have an effective process to involve and consult with representatives of Indian tribal governments in developing regulatory policies and prohibits regulations that impose substantial, direct compliance costs on Indian tribal communities.

Section 5(b)(2)(B) of E.O. 13175 requires NMFS to prepare a tribal summary impact statement as part of the final rule. This statement must contain (1) a description of the extent of the agency's prior consultation with tribal officials, (2) a summary of the nature of their concerns, (3) the agency's position supporting the need to issue the regulation, and (4) a statement of the extent to which the concerns of tribal officials have been met.

Tribal Summary Impact Statement

Pursuant to E.O. 13175 NMFS mailed letters to approximately 640 Alaska tribal governments, ANCSA corporations, and related organizations providing information about Amendment 97 and the proposed rule. The letter invited comments and requests for consultation on this action. One letter was received from Ahtna, Incorporated, an ANCSA corporation, expressing support for the action. NMFS received no requests for consultation. This final rule is needed to implement Amendment 97 to establish Chinook salmon PSC limits in the Western and Central GOA non-pollock trawl fisheries. Implementing Amendment 97 is consistent with the general support for this action expressed by tribal officials during testimony provided at the Council meeting in June 2013.

Collection-of-Information Requirements

This final rule contains references to collection-of-information requirements that have been reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The collections are listed below by OMB control number.

OMB 0648–0316

The Alaska PSD Program is mentioned in this rule; however, the public reporting burden for this collection-of-information is not directly affected by this final rule.

OMB 0648–0515

The Alaska Interagency Electronic Report System is mentioned in this rule; however, the public reporting burden for this collection-of-information is not directly affected by this final rule.

In the proposed rule, NMFS requested public comments on the collection-of-information that are mentioned in this rule. No comments were received.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: November 21, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; and Pub. L. 108–447.

■ 2. In § 679.7, revise paragraph (b)(8) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(b) * * *

(8) *Prohibitions specific to salmon discard in the Western and Central Reporting Areas of the GOA directed fisheries for groundfish.* Fail to comply with any requirements of § 679.21(h) and § 679.21(i).

* * * * *

■ 3. In § 679.21:

■ a. Revise paragraphs (b)(2)(ii), paragraph (h) heading, and paragraphs (h)(1), (h)(4), and (h)(5); and

■ b. Add paragraph (i) to read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(b) * * *

(2) * * *

(ii) After allowing for sampling by an observer, if an observer is aboard, sort its catch immediately after retrieval of the gear and, except for salmon prohibited species catch in the BS pollock fisheries and GOA groundfish fisheries under paragraphs (c), (h), or (i) of this section, or any prohibited species catch as provided (in permits issued) under the PSD program at § 679.26, return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition.

* * * * *

(h) *GOA Chinook Salmon PSC Management for pollock fisheries*—(1) *Applicability.* Regulations in this paragraph apply to vessels directed fishing for pollock with trawl gear in the Western and Central reporting areas of the GOA and processors receiving deliveries from these vessels.

* * * * *

(4) *Salmon retention.* (i) The operator of a vessel, including but not limited to a catcher vessel or tender, must retain all salmon until offload to a processing facility that takes the delivery.

(ii) The owner and the manager of a shoreside processor or SFP receiving pollock deliveries must retain all salmon until:

(A) The manager of a shoreside processor or SFP has accurately recorded the number of salmon by species in the eLandings groundfish landing report; and

(B) If an observer is present, the observer is provided the opportunity to count the number of salmon and to collect any scientific data or biological samples from the salmon.

(5) *Salmon discard.* Except for salmon under the PSD program at § 679.26, all salmon must be discarded after the requirements at paragraph (h)(4)(ii) of this section have been met.

* * * * *

(i) *GOA Chinook Salmon PSC Management for non-pollock trawl fisheries*—(1) *Applicability.* Regulations in this paragraph apply to vessels directed fishing for groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA and processors receiving deliveries of groundfish, other than pollock, from catcher vessels.

(2) *Non-pollock trawl sectors.* The sectors identified in this paragraph (i) are:

(i) *Rockfish Program catcher vessel Sector.* For the purpose of accounting for the Chinook salmon PSC limit at paragraph (i)(3)(i)(B) of this section, the Rockfish Program catcher vessel Sector is any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting areas of the GOA and operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector;

(ii) *Trawl catcher/processor Sector.* For the purpose of accounting for the Chinook salmon PSC limits at paragraphs (i)(3)(i)(A) and (i)(3)(ii) of this section, the Trawl catcher/processor Sector is any catcher processor vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central GOA reporting areas and processing that groundfish at sea; and

(iii) *Non-Rockfish Program catcher vessel Sector.* For the purpose of accounting for the Chinook salmon PSC limit at paragraph (i)(3)(i)(C) of this section, the Non-Rockfish Program catcher vessel Sector is any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting areas of the GOA and not operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector.

(3) *GOA non-pollock trawl Chinook salmon PSC limits.* (i) NMFS establishes annual Chinook salmon PSC limits in the Western and Central reporting areas of the GOA for the sectors defined in paragraph (i)(2) of this section as follows:

For the following sectors defined at § 679.21(i)(2) . . .	The total Chinook salmon PSC limit in each calendar year is . . .	Unless, the use of the Chinook salmon PSC limit for that sector in a calendar year does not exceed . . .	If so, in the following calendar year, the Chinook salmon PSC limit for that sector will be . . .
(A) Trawl catcher/processor sector	3,600	3,120	4,080
(B) Rockfish Program catcher vessel sector	1,200	N/A	
(C) Non-Rockfish Program catcher vessel sector	2,700	2,340	3,060

(ii) For the Trawl catcher/processor Sector defined at § 679.21(i)(2)(ii):

(A) NMFS establishes a seasonal limit within the sector's annual Chinook salmon PSC limit that is available to the sector prior to June 1. If the Trawl catcher/processor Sector defined at § 679.21(i)(2)(ii) has an annual Chinook salmon PSC limit of 3,600 Chinook salmon, then the sector's seasonal limit prior to June 1 is 2,376 Chinook salmon. If the Trawl catcher/processor Sector defined at § 679.21(i)(2)(ii) has an annual Chinook salmon PSC limit of 4,080 Chinook salmon, then the sector's seasonal limit prior to June 1 is 2,693 Chinook salmon.

(B) The amount of Chinook salmon PSC limit available to the Trawl catcher/processor Sector defined at § 679.21(i)(2) on June 1 through the

remainder of the calendar year will be the annual Chinook salmon PSC limit specified for the Trawl catcher/processor Sector minus the number of Chinook salmon PSC used by that sector prior to June 1.

(4) *Rockfish Program catcher vessel Sector reallocation of Chinook salmon PSC limit.* (i) If, on October 1 of each year, the Regional Administrator determines that more than 150 Chinook salmon are available in the Rockfish Program catcher vessel Sector Chinook salmon PSC limit specified at paragraph (i)(3)(i)(B) of this section, the Regional Administrator will reallocate all Chinook salmon PSC available to the Rockfish Program catcher vessel Sector except for 150 Chinook salmon to the Non-Rockfish Program catcher vessel Sector Chinook salmon PSC limit specified at paragraph (i)(3)(i)(C) of this section.

(ii) On November 15 of each year, the Regional Administrator will reallocate all of the remaining Chinook salmon available in the Rockfish Program catcher vessel Sector Chinook salmon PSC limit specified at paragraph (i)(3)(i)(B) of this section to the Non-Rockfish Program catcher vessel Sector Chinook salmon PSC limit specified at paragraph (i)(3)(i)(C) of this section.

(5) *Salmon retention.* (i) The operator of a catcher vessel or tender must retain all salmon until offload to a processing facility that takes the delivery.

(ii) The owner and manager of a shoreside processor or SFP receiving non-pollock fishery deliveries must retain all salmon until the number of salmon by species has been accurately recorded in the eLandings groundfish landing report.

(iii) The operator of a catcher/processor must retain all salmon until an observer is provided the opportunity to collect scientific data or biological samples, and the number of salmon by species has been accurately recorded in the eLandings At-sea production report.

(6) *Salmon discard.* Except for salmon under the PSD program defined at § 679.26, all salmon must be discarded after the requirements at paragraph (i)(5)(ii) or (i)(5)(iii) of this section have been met.

(7) *Chinook salmon PSC closures in non-pollock trawl gear fisheries.* If, during the fishing year, the Regional Administrator determines that:

(i) Vessels in a sector defined at § 679.21(i)(2) will catch the applicable Chinook salmon PSC limit specified at paragraph (i)(3)(i) of this section for that sector, NMFS will publish notification in the **Federal Register** closing directed fishing for all groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for that sector; or

(ii) Vessels in the Trawl catcher/processor Sector defined at § 679.21(i)(2) will catch the seasonal Chinook salmon PSC limit specified under paragraph (i)(3)(ii)(A) of this section prior to June 1, NMFS will publish notification in the **Federal Register** closing directed fishing for groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for all vessels in the Trawl catcher/processor Sector defined at § 679.21(i)(2) until June 1. Directed fishing for groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for vessels in the Trawl catcher/processor Sector defined at § 679.21(i)(2) will reopen on June 1 with the Chinook salmon PSC limit determined under paragraph (i)(3)(ii)(B) of this section unless NMFS determines that the amount of Chinook salmon PSC limit available to the sector is insufficient to allow the sector to fish and not exceed its annual Chinook salmon PSC limit.

[FR Doc. 2014–28096 Filed 12–1–14; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 231
Tuesday, December 2, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0904; Directorate Identifier 2014–NE–14–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Rolls-Royce plc (RR) RB211–524 turbofan engines with certain part number (P/N) low-pressure turbine (LPT) stage 3 turbine blades installed. This proposed AD was prompted by reports of LPT stage 3 turbine blade failures, release of blades, and subsequent in-flight shutdowns. This proposed AD would require implementation of a life limit for certain P/N LPT stage 3 turbine blades and replacement of affected blades that reach or exceed the life limit. We are proposing this AD to prevent failure of LPT stage 3 turbine blades and subsequent release of blade debris, which could lead to failure of one or more engines, loss of thrust control, and damage to the airplane.

DATES: We must receive comments on this proposed AD by February 2, 2015.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

For service information identified in this NPRM, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE24 8BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://www.aeromanager.com*. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0904; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kenneth Steeves, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7765; fax: 781–238–7199; email: *kenneth.steeves@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this NPRM. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2014–0904; Directorate Identifier 2014–NE–14–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this NPRM.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2014–0210, dated September 19, 2014 (referred to hereinafter as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Since 2006, a number of low pressure turbine (LPT) Stage 3 blade failures have been reported, each resulting in engine in-flight shut-down. Engineering analysis on those occurrences indicates that blades with an accumulated life of 11,000 flight cycles (FC) or more have an increased risk of failure.
>
> This condition, if not detected and corrected, could lead to release of LPT Stage 3 blade debris and consequent (partial or complete) loss of engine power, possibly resulting in reduced control of the aeroplane.

This proposed AD would require implementation of a life limit for certain P/N LPT stage 3 turbine blades and replacement of affected blades that reach or exceed the life limit due to analysis that indicates increased risk of failure of blades with an accumulated life of 11,000 FC or more.

We are proposing this AD to prevent failure of LPT stage 3 turbine blades and subsequent release of blade debris, which could lead to failure of one or more engines, loss of thrust control, and damage to the airplane.

You may obtain further information by examining the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0904.

Relevant Service Information

RR has issued Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AH790, Revision 1, dated November 5, 2014. The Alert NMSB describes procedures for removing from service certain LPT stage 3 turbine blades.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom, and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the

MCAI and service information referenced above. We are proposing this NPRM because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require implementation of a life limit for certain P/N LPT stage 3 turbine blades and replacement of affected blades that reach or exceed the life limit.

Costs of Compliance

We estimate that this proposed AD affects 2 engines installed on airplanes of U.S. registry. We also estimate that it would take about 120 hours per engine to comply with this proposed AD. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $20,400.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Amend § 39.13 by adding the following new airworthiness directive (AD):

Rolls-Royce plc: Docket No. FAA–2014–0904; Directorate Identifier 2014–NE–14–AD.

(a) Comments Due Date

We must receive comments by February 2, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce plc (RR) RB211–524B–02, RB211–524B–B–02, RB211–524B2–19, RB211–524B2–B–19, RB211–524B3–02, RB211–524C2–19, and RB211–524C2–B–19 turbofan engines with low-pressure turbine (LPT) stage 3 turbine blade, part number (P/N) LK55386, LK86483, or LK86503, installed.

(d) Reason

This AD was prompted by reports of LPT stage 3 turbine blade failure, release of blades, and subsequent in-flight shutdown. We are issuing this AD to prevent failure of LPT stage 3 turbine blades and subsequent release of blade debris, which could lead to failure of one or more engines, loss of thrust control, and damage to the airplane.

(e) Actions and Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) Remove from service before further flight any LPT stage 3 turbine blade, P/N LK55386, LK86483, or LK86503, that exceeds 11,000 flight cycles since new.

(2) If you cannot determine the accumulated flight cycles, remove any LPT stage 3 turbine blade, P/N LK55386, LK86483, or LK86503 within 200 flight cycles after the effective date of this AD.

(3) After the effective date of this AD, do not install any LPT stage 3 turbine blade, P/N LK55386, LK86483, or LK86503, on any engine if the blade has accumulated 11,000 or more flight cycles since new.

(f) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(g) Related Information

(1) For more information about this AD, contact Kenneth Steeves, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7765; fax: 781–238–7199; email: *kenneth.steeves@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2014–0210, dated September 19, 2014, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0904.

(3) RR Alert Non-Modification Service Bulletin No. RB.211–72–AH790, Revision 1, dated November 5, 2014, which is not incorporated by reference in this AD, can be obtained from RR, using the contact information in paragraph (g)(4) of this proposed AD.

(4) For service information identified in this proposed AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE24 8BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://www.aeromanager.com.*

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on November 24, 2014.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–28339 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0993; Airspace Docket No. 13–ASW–28]

Proposed Establishment of Class E Airspace; Tucumcari, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM), withdrawal.

SUMMARY: This action withdraws the NPRM published in the **Federal Register** on December 20, 2013. In that action, the FAA proposed to establish Class E airspace at the Tucumcari VORTAC, Tucumcari, NM. The FAA has determined that withdrawal of the NPRM is warranted as a result of objections raised during the comment period.

DATES: As of December 2, 2014, the proposed rule published December 20, 2013, at 78 FR 77023, is withdrawn.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7654.

SUPPLEMENTARY INFORMATION: On December 20, 2013, a NPRM was published in the **Federal Register** (78 FR 77023) to amend Title 14 Code of Federal Regulations (14 CFR) part 71 to establish Class E Airspace extending upward from 1,200 feet above the surface at the Tucumcari VHF Omni-Directional Radio Range Tactical Air Navigation Aid (VORTAC) Tucumcari, NM, to contain aircraft while in Instrument Flight Rules conditions under control of Albuquerque Air Route Traffic Control Center by vectoring aircraft from en route airspace to terminal areas. As a result of objections that were raised during the comment period, the NPRM is being withdrawn. A new NPRM will be forthcoming.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking,, as published in the **Federal Register** of December 20, 2013 (78 FR 77023) (FR Doc. 2013–30339), is hereby withdrawn.

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Fort Worth, TX, on November 20, 2014.

Walter Tweedy,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–28230 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0724; Airspace Docket No. 14–AGL–12]

Proposed Establishment of Class E Airspace; Clark, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Clark, SD. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Clark County Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before January 16, 2015.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2014–0724/Airspace Docket No. 14–AGL–12, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7740.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2014–0724/Airspace Docket No. 14–AGL–12." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend title 14, Code of Federal Regulations (14 CFR), part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Clark County Airport, Clark, SD, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9Y, dated August 6, 2014 and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an

established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Clark County Airport, Clark, SD.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014 and effective September 15, 2014, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL SD E5 Clark, SD [New]

Clark County Airport, ND
(Lat. 48°28′48″ N., long. 099°14′11″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Clark County Airport.

Issued in Fort Worth, TX, on November 24, 2014.

Humberto Melendez,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–28363 Filed 12–1–14; 8:45 am]

BILLING CODE 4901–14–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AP18

Additional Compensation on Account of Children Adopted Out of Veteran's Family

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulations to clarify that a veteran will not receive the dependent rate of disability compensation for a child who is adopted out of the veteran's family. This action is necessary because applicable VA adjudication regulations are currently construed as permitting a veteran, whose former child was adopted out of the veteran's family, to receive the dependent rate of disability compensation for the adopted-out child, which constitutes an unwarranted award of benefits not supported by the applicable statute and legislative history.

DATES: Comments must be received on or before February 2, 2015.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to "RIN 2900–AP18—Additional Compensation on Account of Children Adopted Out of Veteran's Family." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Stephanie Li, Section Chief, Regulations Staff (211D), Compensation Service, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: Pursuant to 38 U.S.C. 1115, a veteran entitled to compensation based on a service-connected disability rated not less than 30 percent is entitled to an additional rate of disability compensation for each of his or her children. Section 101(4)(A) of title 38, United States Code, defines "child" to include an unmarried person under the age of 18 years who is a legitimate child, a legally adopted child, a stepchild who is a member of the veteran's household or was a member of the veteran's household at the time of the veteran's death, or an illegitimate child. See also 38 CFR 3.57. The statute also provides some exceptions for individuals who are permanently incapable of self-support and individuals who are pursuing an education. See 38 U.S.C. 101(4)(A); see also 38 CFR 3.57. Additionally, 38 CFR 3.58 provides that "[a] child of a veteran adopted out of the family of the veteran . . . is nevertheless a *child* within the meaning of that term as defined by § 3.57 and is eligible for benefits payable under all laws administered by the Department of Veterans Affairs." See VA Op. Gen. Couns. Prec. 16–94 (1994) ("pursuant to [§ 3.58] a child adopted out of a veteran's family may remain a child of the veteran for VA purposes"). Therefore, under current regulations, VA is required to pay a veteran additional disability compensation for a child who otherwise meets the requirements under § 3.57 but has been adopted out of the veteran's family.

However, VA believes its longstanding interpretation in § 3.58 as it applies to 38 U.S.C. 1115 is inconsistent with the statute's clear purpose to provide for payments to a

veteran that are based primarily upon the veteran's needs for purposes of supporting his or her dependent family members. This purpose is evident from the statute's language, structure, and legislative history. VA believes Congress did not intend for section 1115 to provide additional disability compensation to a veteran on account of a child who is adopted out of the veteran's family. In such cases, it is clear that any payment to the veteran on account of the adopted-out child would rarely, if ever, fulfill the clear purpose of section 1115 to provide for the expense of supporting that child. As such, VA proposes to amend its regulations, particularly 38 CFR 3.57, 3.58, and 3.458, to eliminate this additional compensation paid to veterans for such children.

I. History of 38 U.S.C. 1115 and Bases for Rulemaking

The definition of "child" in 38 U.S.C. 101(4)(A), which refers to legitimate, illegitimate, adopted, and certain stepchildren, is ambiguous as to whether it encompasses a biological child who has been legally adopted out of the veteran's family. As noted above, VA historically has concluded that an adopted-out child will be considered the veteran's child for purposes of all benefits administered by VA. However, providing payments to a veteran under 38 U.S.C. 1115 on the basis of an adopted-out child creates an anomaly that undermines the clear purpose of that statute.

Section 1115 provides that certain veterans entitled to disability compensation "shall be entitled to additional compensation *for dependents* in the following monthly amounts." (Emphasis added.) The term "dependent" is not defined for purposes of title 38 generally or section 1115 specifically, but is commonly understood to refer to a person who is legally or factually reliant upon the veteran for support. Although a veteran ordinarily will have a legal and moral obligation to support his or her biological child, that is not the case when the child has been adopted out of the veteran's family. A child-parent relationship typically "does not exist between an [adopted-out child] and the [adopted-out child's] genetic parents." See *Astrue* v. *Capato ex rel. B.N.C.*, 132 S. Ct. 2021, 2030 (2012) (quoting Unif. Probate Code § 2–119(a), 8 U.L.A. 55 (Supp. 2011)). Accordingly, we believe an adopted-out child generally would not be a "dependent" within the meaning of 38 U.S.C. 1115.

Further, section 1115(1) provides that the dependents' allowance will be paid, in monthly amounts, "[i]f and while [the veteran] . . . has . . . one or more children." The statute thus clearly refers to the present existence of a parent-child relationship. Even if the child's biological relationship or pre-adoption legal relationship to the veteran may provide a basis for certain types of VA benefits, it would not provide a basis for payment under section 1115 if the parent-child relationship has been severed at the time relevant to current payments.

The payments authorized by 38 U.S.C. 1115 are paid in addition to payments authorized by 38 U.S.C. 1114 as payment for the level of impairment caused by the veteran's service-connected disability. Because payments under section 1115 are in addition to payments for impairment due to disability and because they are paid "for dependents," the clear purpose of section 1115 is to provide payments to the disabled veteran because of the economic burden associated with providing for dependents. *See Rose* v. *Rose*, 481 U.S. 619, 630–31 (1987) (citing 38 U.S.C. 315 (now codified as 38 U.S.C. 1115) and concluding that "Congress clearly intended veterans' disability benefits to be used, in part, for the support of veterans' dependents"). We do not believe that Congress intended to authorize payment to the veteran of a dependents' allowance in cases where the veteran does not have a present parent-child relationship with the adopted-out child and thus would not incur the economic burdens the statute is designed to address.

The legislative history of the statute further supports this interpretation. The current version of 38 U.S.C. 1115 originated in 1958 under Public Law 85–857, 72 Stat. 1121. However, "[t]he additional compensation for dependents was first authorized by Public Law 877, 80th Congress, approved July 2, 1948." Letter from Bradford Morse, Dep. Adm. U.S. Vet. Adm., to Rep. Olin E. Teague, Chair, H. Comm. on Veterans Affairs, contained in H.R. Rep. No. 86–1541, at 3 (1960). By enacting this statute, Congress intended that a veteran entitled to compensation based on a service-connected disability rated not less than a designated level would receive additional compensation on account of his or her children.

Additionally, "the legislative history [of Public Law 80–877] indicates that one of the reasons for limiting the benefits provided by the act to persons 60 percent or more disabled was based on the fact that this group of veterans because of the serious nature of their disabilities are not generally in a position to supplement their compensation payments by income from steady employment" and "veterans with disabilities rated less than 50 percent are generally able to supplement their compensation payments with other income." See H.R. Rep. No. 86–1541, at 3–4. In view of section 1115's legislative history, VA believes Congress intended the section 1115 allowance to only supplement a veteran's income, that is, to provide additional budgetary support within the veteran's household expense framework. Section 101(13) of title 38, U.S.C., in part, defines the term "compensation" as a "monthly payment made by the Secretary *to a veteran because of service-connected disability*" (emphasis added), which may be supplemented by "other income" to support the veteran's family, see H.R. Rep. No. 1541, at 4. Compare with 38 U.S.C. 101(14) (defining the term "dependency and indemnity compensation" as "a monthly payment made by the Secretary *to a . . . child*") (emphasis added). Thus, the section 1115 allowance was provided for those veterans who likely were unable to supplement their compensation payments to support their family with "other income" due to their service-connected disabilities.

The Secretary, however, does not interpret the legislative history to support, nor intend this rulemaking, to restrict to any degree a child's right to receive VA benefits in the child's own right, such as dependency and indemnity compensation (DIC), which is not necessarily dependent upon a continuing, legally based parent-child relationship. See 38 CFR 3.5 (referring to a child's entitlement to DIC); 38 U.S.C. 101(14) (defining DIC as "a monthly payment made by the Secretary *to a . . . child*") (emphasis added). The U.S. Court of Appeals for the Federal Circuit has held that the dependent's allowance, or child's allowance under section 1115, is provided to the veteran, not to the veteran's children (or other dependents). See *Sharp v. Nicholson*, 403 F.3d 1324, 1327 (Fed. Cir. 2005) ("[T]he reference [in 38 U.S.C. 1115] to '*additional* compensation' . . . indicates that *the veteran*, who is already entitled to some degree of compensation for his service-connected disability, is also entitled to a supplementary amount because he or she has dependents."). See also H.R. Rep. No. 1541, at 3–4. We find it significant that payments under section 1115 are payments to the veteran based on the veteran's relationship to the purported child, whereas DIC and certain other benefits are paid to the child in his or her own right.

VA's current regulation at 38 CFR 3.58 derives from a line of VA legal opinions consistently holding that a child's adoption out of a veteran's family does not affect the child's right to receive DIC or similar benefits payable to the child in his or her own right. One of the earliest of these opinions, which was relied upon in part to support VA's current policy in § 3.58, was issued by the Bureau of War Risk Insurance, a predecessor agency to VA, in 1919 and prior to enactment of section 1115. This opinion stated, "An adopted child, is in a legal sense, the child both of its natural and of its adopting parents, and is not, because of the adoption, deprived of its rights of inheritance from its natural parents, unless the statute of the state of its domicile expressly so provides." See Memorandum, Bureau of War Risk Insurance, General Counsel (Apr. 5, 1919). The Secretary notes that, similar to DIC and unlike additional compensation under section 1115, inheritance rights of a child who is adopted from the biological parents are not contingent on an existing child-parent relationship or financial dependency on the biological parents and may survive a legal adoption, depending upon the laws of individual states. See Child Welfare Information Gateway, U.S. Dept. of Health & Human Services, *Interstate Inheritance Rights for Adopted Persons* 2 (2012), available at *https://www.childwelfare.gov/systemwide/laws_policies/statutes/inheritance.pdf*. Because the additional compensation payable to a veteran for a child under 38 U.S.C. 1115 is the benefit of the veteran, not the child, the logic of the prior VA opinions and the analogy to the child's right to inherit from the veteran who is the child's biological parent are not relevant to section 1115.

We recognize that this interpretation may be viewed as treating an adopted-out child's status as the veteran's "child" differently for purposes of section 1115 in comparison to other benefits. However, we believe our interpretation is warranted by the specific requirements and clear purpose of section 1115, which distinguish that statute from statutes governing DIC and other benefits, and by the rationale in prior VA opinions for finding that adoption out of the veteran's family does not terminate the child's right to receive benefits in his or her own right. We believe our interpretation is reasonable and logically comports with the intent of Congress.

II. Proposed Regulatory Amendments

For the reasons discussed above, VA proposes to implement this interpretation of section 1115 by modifying 38 CFR 3.57, 3.58, and 3.458.

The proposed amendment to § 3.57 would add a third exception to the definition of child in § 3.57(a) to provide that the definition of child does not include a child who is adopted out of a veteran's family in connection with any benefits that are provided to a veteran pursuant to 38 U.S.C. 1115. The amended regulation would state that this limitation would not apply to any VA benefit payable directly to a child in the child's own right, such as DIC under 38 CFR 3.5. The same limitation would be added to § 3.58, the regulation governing a child adopted out of a family. Both proposed amendments would be consistent with the legislative intent of section 1115 to provide supplemental income to a veteran to enhance the veteran's efforts to provide financial support to the veteran's then constituted family. Congress recognized that this supplemental income was necessary because the veteran's service-connected disability or disabilities would hinder the veteran's ability to generate earned income. Once a child is no longer a member of the veteran's family, the veteran's corresponding family-related expenses would presumably and proportionately decrease, so the veteran should no longer receive increased compensation due to the child, who would no longer be financially dependent on the veteran.

Consistent with the intent of Congress, specifically that the additional benefits that are provided under section 1115 are intended to supplement the veteran's income, VA also proposes to amend 38 CFR 3.458, which sets forth limitations on the apportionment of a veteran's benefits. VA proposes to amend § 3.458 to exclude the apportionment of section 1115 benefits in the case of an adopted-out child because section 1115 benefits would no longer be payable in the case of an adopted-out child.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action" requiring review by the Office of Management and Budget (OMB), unless OMB waives such review as, "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov*, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/*, by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–12). This proposed rule would not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal

governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–21).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.105, Pension to Veterans, Surviving Spouses, and Children; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on November 21, 2014, for publication.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Dated: November 26, 2014.

William F. Russo,

Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.

For the reasons set out in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend § 3.57 by:
■ a. In paragraph (a)(1) introductory text, removing the phrase "paragraphs (a)(2) and (3)" and adding in its place "paragraphs (a)(2) through (4)";
■ b. Adding paragraph (a)(4).
■ c. Adding an authority citation immediately following paragraph (a)(4).
■ d. Revising the Cross References at the end of the section.

The revisions and additions read as follows:

§ 3.57 Child.

(a) * * *

(4) For purposes of any benefits provided under 38 U.S.C. 1115, Additional compensation for dependents, the term child does not include a child of a veteran who is adopted out of the family of the veteran. This limitation does not apply to any benefit administered by the Secretary that is payable directly to a child in the child's own right, such as dependency and indemnity compensation under 38 CFR 3.5.

(Authority: 38 U.S.C. 101(4), 501, 1115)

* * * * *

CROSS REFERENCES: Improved pension rates. See § 3.23. Improved pension rates; surviving children. See § 3.24. Child adopted out of family. See § 3.58. Child's relationship. See § 3.210. Helplessness. See § 3.403(a)(1). Helplessness. See § 3.503(a)(3). Veteran's benefits not apportionable. See § 3.458. School attendance. See § 3.667. Helpless children—Spanish-American and prior wars. See § 3.950.

■ 3. Revise § 3.58 to read as follows:

§ 3.58 Child adopted out of family.

(a) Except as provided in paragraph (b) of this section, a child of a veteran adopted out of the family of the veteran either prior or subsequent to the veteran's death is nevertheless a *child* within the meaning of that term as defined by § 3.57 and is eligible for benefits payable under all laws administered by the Department of Veterans Affairs.

(b) A child of a veteran adopted out of the family of the veteran is not a child within the meaning of § 3.57 for purposes of any benefits provided under 38 U.S.C. 1115, Additional compensation for dependents.

(Authority: 38 U.S.C. 101(4)(A), 1115)

CROSS REFERENCES: Child. See § 3.57. Veteran's benefits not apportionable. See § 3.458.

■ 4. Amend § 3.458 by:
■ (a) In paragraph (d) removing the phrase ", except the additional compensation payable for the child".
■ (b) Adding Cross References at the end of the section.

The addition reads as follows:

§ 3.458 Veterans benefits not apportionable.

* * * * *

CROSS REFERENCES: Child. See § 3.57. Child adopted out of family. See § 3.58.

[FR Doc. 2014–28374 Filed 12–1–14; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0352; FRL–9919–97–OAR]

Approval and Promulgation of Air Quality Implementation Plans; State of Montana Second 10-Year Carbon Monoxide Maintenance Plan for Billings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Montana. On July 13, 2011, the Governor of Montana's designee submitted to EPA a second 10-year maintenance plan for the Billings area for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS). This maintenance plan addresses maintenance of the CO NAAQS for a second 10-year period beyond the original redesignation. EPA is also proposing approval of an alternative monitoring strategy for the Billings CO maintenance area, which was submitted by the Governor's designee on June 22, 2012.

DATES: Comments must be received on or before January 2, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2012–0352, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Email: *clark.adam@epa.gov*
- Fax: (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- Mail: Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- Hand Delivery: Director, Air Program, EPA, Region 8, Mail Code 8P–AR, 1595 Wynkoop, Denver, Colorado

80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2012–0352. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–7104, *clark.adam@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The initials *ADT* mean or refer to Average Daily Traffic.

(iii) The initials *CO* mean or refer to carbon monoxide.

(iv) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(v) The initials *LMP* mean or refer to Limited Maintenance Plan.

(vi) The initials *MDEQ* mean or refer to Montana Department of Environmental Quality.

(vii) The initials *MVEB* mean or refer to Motor Vehicle Emissions Budget.

(viii) The initials *NAAQS* mean or refer to the National Ambient Air Quality Standards.

(ix) The initials *ppm* mean or refer to parts per million.

(x) The initials *RTP* mean or refer to Regional Transportation Plan.

(xi) The initials *SIP* mean or refer to State Implementation Plan.

(xii) The initials *TIP* mean or refer to Transportation Improvement Plan.

(xiii) The words *Montana* and *State* mean or refer to the State of Montana.

I. General Information

What should I consider as I prepare my comments for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register**, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and
- Make sure to submit your comments by the comment period deadline identified.

II. Background

A. Billings CO Maintenance Plan

Under the Clean Air Act (CAA) Amendments of 1990, the Billings area was designated as nonattainment and classified as a "not classified" CO area. This was because the area had been designated as nonattainment before November 15, 1990, but had not violated the CO NAAQS in 1988 and 1989 (56 FR 56694, November 6, 1991). On February 9, 2001, the Governor of Montana submitted to us a request to redesignate the Billings CO nonattainment area to attainment for the CO NAAQS. Along with this request, the Governor submitted a CAA section 175A(a) maintenance plan which demonstrated that the area would maintain the CO NAAQS for the first 10 years following our approval of the redesignation request. We approved the State's redesignation request and 10-year maintenance plan on February 21, 2002 (67 FR 7966).

Eight years after an area is redesignated to attainment, CAA section 175A(b) requires the state to submit a subsequent maintenance plan to EPA, covering a second 10-year period.[1] This second 10-year maintenance plan must demonstrate continued compliance with the NAAQS during this second 10-year period. To fulfill this requirement of the CAA, the Governor of Montana's designee submitted the second 10-year update of the Billings CO maintenance plan (hereafter; "revised Billings Maintenance Plan") to us on July 13, 2011. With this action, we are proposing approval of the revised Billings Maintenance Plan.

The 8-hour CO NAAQS—9.0 parts per million (ppm)—is attained when such value is not exceeded more than once a year. 40 CFR 50.8(a)(1). The Billings area has attained the 8-hour CO NAAQS from 1988 to the present. In October 1995, EPA issued guidance that provided nonclassifiable CO nonattainment areas the option of using a less rigorous "limited maintenance plan" (LMP) option to demonstrate continued attainment and maintenance of the CO NAAQS.[2] According to this guidance, areas that can demonstrate design values (2nd highest max) at or below 7.65 ppm (85% of exceedance levels of the 8-hour CO NAAQS) for eight consecutive quarters qualify to use an LMP. The area qualified for and used EPA's LMP option for the first 10-year Billings CO maintenance plan (67 FR 7966, February 21, 2002). For the revised Billings Maintenance Plan the State again used the LMP option to demonstrate continued maintenance of the CO NAAQS in the Billings area. We have determined that the Billings area continues to qualify for the LMP option because the maximum design value for the most recent eight consecutive quarters with certified data at the time the State adopted the plan (years 2008 and 2009) was 2 ppm.[3]

B. Alternative CO Monitoring Strategy

Along with the revised Billings Maintenance Plan, the State submitted a CO maintenance plan for the Great Falls, Montana maintenance area, and an alternative strategy for monitoring continued attainment of the CO NAAQS in all of the State's CO maintenance areas on July 13, 2011.[4] The State submitted the alternative monitoring strategy to conserve resources by discontinuing the gaseous CO ambient monitors in both the Billings and Great Falls CO maintenance areas. In place of the gaseous ambient monitors, the State's alternative method relies on rolling 3-year Average Daily Traffic (ADT) vehicle counts collected from permanent automatic traffic recorders in each maintenance area. We commented on the State's "Alternative Monitoring Strategy," and the State submitted to us a revised version of the strategy which incorporated our comments on June 22, 2012. The State's June 22, 2012 Alternative Monitoring Strategy replaced the version submitted on July 13, 2011.

III. EPA's Evaluation of Montana's Alternative Monitoring Strategy in Billings

Since 2002, no Billings CO monitor has registered a design value greater than 4.4 ppm, which is roughly half of the NAAQS. Further, since 2006, no Billings monitor has registered a design value greater than 2.2 ppm, roughly 25% of the NAAQS.[5] Citing these consistently low monitor values, and expressing a desire to conserve monitoring resources, the State has requested to discontinue CO monitoring in Billings and instead use an alternative strategy for monitoring maintenance of the CO NAAQS.

The State's Alternative Monitoring Strategy utilizes ADT vehicle counts collected from permanent automatic traffic recorders in the Billings CO maintenance area to determine average monthly traffic during the traditional high CO concentration season of November through February. The State will compare the latest rolling 3-years of monthly ADT volumes to the 2008–2010 baseline ADT volumes (see Table 1) that correlate to the low CO monitored values during that period (see Table 2). Because mobile sources are the biggest driver of CO pollution, the Montana Department of Environmental Quality (MDEQ) reasoned that any significant increase in CO emissions would have to be accompanied by a significant increase in ADT.[6] EPA agrees with the State's reasoning.

TABLE 1—TRAFFIC VOLUMES FOR BILLINGS, MONTANA

Rolling 2008–2010 ADT: November to February	
Month-Year	Billings (#A–050)
January 2008	32,778
February 2008	35,463
November 2008	35,832
December 2008	32,042
January 2009	33,256
February 2009	35,695
November 2009	37,121
December 2009	33,905
January 2010	32,340
February 2010	34,317
November 2010	33,885
December 2010	34,317
Average	34,246

TABLE 2—8-HOUR CO DESIGN VALUES FOR BILLINGS, MONTANA

Design Value (ppm)[7]	Year
4.3	2002
4.4	2003
3.7	2004
3.5	2005
2	2006
2.2	2007
2	2008
1.8	2009
1.9	2010
1.3	2011

If the rolling 3-year ADT value is 25% higher than the average value from the 2008–2010 baseline period of 34,246, the State will reestablish CO ambient monitoring in Billings the following high season (November–February). If the CO design value in that season has not increased from the baseline mean by an equal or greater rate at which ADT has increased, and the monitor values remain at or below 50% of the CO NAAQS (2nd max concentration ≤ 4.5 ppm), the monitor may again be removed and the ADT counts will continue to be relied upon to determine compliance with the NAAQS. This process will be repeated each time the rolling 3-year ADT increases by a factor of 25% (*e.g.* 50%, 75%) above the baseline 2008–2010 period, and the same analysis will be conducted to determine if the monitors can again be removed.

[1] In this case, the initial maintenance period extended through 2012. Thus, the second 10-year period extends through 2022.

[2] Memorandum "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph W. Paisie, Group Leader, EPA Integrated Policy and Strategies Group, to Air Branch Chiefs, October 6, 1995.

[3] See Table 2 below. Additionally, according to the LMP guidance, an area using the LMP option must continue to have a design value "at or below 7.65 ppm until the time of final EPA action on the redesignation." Table 2, below, demonstrates that the area meets this requirement.

[4] In addition to Billings and Great Falls, the Missoula, MT CO maintenance area was included in the July 13, 2011Alternative Monitoring Strategy.

[5] See Table 2 below. Design values were derived from the EPA AirData (*http://www.epa.gov/airdata/*) Web site.

[6] See "Review of National Ambient Air Quality Standards for Carbon Monoxide," 76 FR 54294, August 31, 2011.

[7] Design values were derived from the EPA AirData (*http://www.epa.gov/airdata/*) Web site.

40 CFR 58.14(c) allows approval of requests to discontinue ambient monitors "on a case-by-case basis if discontinuance does not compromise data collection needed for implementation of a NAAQS and if the requirements of appendix D to 40 CFR part 58, if any, continue to be met." EPA finds that the Alternative Monitoring Strategy meets the criteria of 40 CFR 58.14(c) for the Billings CO maintenance area. Given the long history of low CO concentrations in the Billings area, and the adequacy of the Alternative Monitoring Strategy at ensuring continued attainment of the CO NAAQS, EPA finds it appropriate to approve the State's request to discontinue the Billings monitor and use the Alternative Monitoring Strategy in its place.

IV. EPA's Evaluation of the Billings Second 10-Year CO Maintenance Plan

The following are the key elements of a LMP for CO: Emission Inventory, Maintenance Demonstration, Monitoring Network/Verification of Continued Attainment, Contingency Plan, and Conformity Determinations. Below, we describe our evaluation of each of these elements as it pertains to the revised Billings Maintenance Plan.

A. Emission Inventory

The revised Billings Maintenance Plan contains an emissions inventory for the base year 2009. The emission inventory is a list, by source, of the air contaminants directly emitted into the Billings CO maintenance area on a typical winter day in 2009.[8] The mobile sources data in the emission inventory in the July 13, 2011 submittal were developed using emissions modeling methods that EPA did not consider up-to-date. After consultation with EPA, the State then provided EPA with technical information to clarify and supplement the emissions inventory from the July 13, 2011 submittal.[9] This supplemental technical information utilized EPA recommended mobile sources emissions modeling methods (MOVES2010b).[10] The Billings LMP and supplementary technical information contain detailed emission inventory information that was prepared in accordance with EPA guidance and is acceptable to EPA.[11]

B. Maintenance Demonstration

We consider the maintenance demonstration requirement to be satisfied for areas that qualify for and use the LMP option. As mentioned above, a maintenance area is qualified to use the LMP option if that area's maximum 8-hour CO design value for eight consecutive quarters does not exceed 7.65 ppm (85% of the CO NAAQS). EPA maintains that if an area begins the maintenance period with a design value no greater than 7.65 ppm, the applicability of prevention of significant deterioration requirements, the control measures already in the SIP, and federal measures should provide adequate assurance of maintenance over the 10-year maintenance period. Therefore, EPA does not require areas using the LMP option to project emissions over the maintenance period. Because CO design values in the Billings area are consistently well below the LMP threshold (See Table 2), the State has adequately demonstrated that the Billings area will maintain the CO NAAQS into the future.

C. Monitoring Network/Verification of Continued Attainment

In the revised Billings Maintenance Plan, the State commits to "continue to monitor CO using an instrumental method or a functionally equivalent monitoring methodology as approved by EPA." As noted, EPA is proposing to approve the State's Alternative Monitoring Strategy for the Billings CO maintenance area as part of this action. Based on final approval of the Alternative Monitoring Strategy, we will have concluded that the strategy is adequate to verify continued attainment of the CO NAAQS in Billings.

D. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions to promptly correct any violation of the NAAQS that occurs after redesignation of an area. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures.

The Billings Maintenance Plan stated in section 56.12.7.4 that the State will use an exceedance of the CO NAAQS as the trigger for adopting specific contingency measures for the Billings area. As noted, the Alternative Monitoring Strategy requires reinstitution of a CO monitor in Billings if traffic levels increase from the 2008–2010 baseline by a factor of 25%. Therefore, EPA finds that CO emissions in Billings are very unlikely to increase to the point of an exceedance without that exceedance being observed by a gaseous monitor.

The State indicates that notification of an exceedance to EPA and other affected governments will occur within 60 days. Upon notification of a CO NAAQS exceedance, MDEQ and Riverstone Health will convene to recommend an appropriate contingency measure or measures that would be necessary to avoid a violation of the CO NAAQS. The necessary contingency measure(s) will then be proposed for local adoption. Finalization of the necessary contingency measures for local adoption will be completed within three months of the exceedance notification. Full implementation of the locally adopted contingency measure(s) will be achieved within one year after the recording of a CO NAAQS violation.

The potential contingency measures, identified in section 56.12.7.4.C of the Billings Maintenance Plan, include implementation of a mandatory oxygenated fuels program with local regulations in the Billings or Yellowstone County area for the winter months of November, December, and January, and establishing an episodic woodburning curtailment program. A more complete description of the triggering mechanism and these contingency measures can be found in section 56.12.7.4 of the Billings Maintenance Plan.

We find that the contingency measures provided in the State's maintenance plan for Billings are sufficient and meet the requirements of section 175A(d) of the CAA.

E. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. To effectuate its purpose, the conformity rule requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement

[8] Violations of the CO NAAQS are most likely to occur on winter weekdays.

[9] The supplemental technical information was sent to EPA on July 23, 2014, and is available in the docket for this action.

[10] Motor Vehicle Emissions Simulator (MOVES) model; version 2010b.

[11] "Procedures for Processing Requests to Redesignate Areas to Attainment," from John Calcagni, September 4, 1992.

Program (TIP) are consistent with the motor vehicle emission budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain compliance with the NAAQS in the nonattainment or maintenance area.[12]

Under the LMP policy, emissions budgets are treated as essentially not constraining for the length of the maintenance period. While EPA's LMP guidance does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting a MVEB. This is because it is unreasonable to expect that an LMP area will experience so much growth in that period that a violation of the CO NAAQS would result.[13] Therefore, for the Billings CO maintenance area, all actions that require conformity determinations for CO under our conformity rule provisions are considered to have already satisfied the regional emissions analysis and "budget test" requirements in 40 CFR 93.118.

Since LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs and projects. Specifically, for such determinations, RTPs, TIPs and projects must still demonstrate that they are fiscally constrained (40 CFR 93.108) and meet the criteria for consultation and Transportation Control Measure implementation in the conformity rule provisions (40 CFR 93.112 and 40 CFR 93.113, respectively). In addition, projects in LMP areas still will be required to meet the applicable criteria for CO hot spot analyses to satisfy "project level" conformity determinations (40 CFR 93.116 and 40 CFR 93.123), which must also incorporate the latest planning assumptions and models available (40 CFR 93.110 and 40 CFR 93.111, respectively).

In view of the CO LMP policy, the effect of this proposed approval will be to affirm our adequacy finding such that no regional emissions analyses for future transportation CO conformity determinations are required for the CO LMP period and beyond (as per EPA's CO LMP policy and 40 CFR 93.109(e)).

[12] Further information concerning EPA's interpretations regarding MVEBs can be found in the preamble to EPA's November 24, 1993, transportation conformity rule (see 58 FR 62193—62196).

[13] Limited Maintenance Plan Guidance at 4. October 6, 1995.

V. Proposed Action

EPA is proposing to approve the revised Billings Maintenance Plan submitted on July 13, 2011. This maintenance plan meets the applicable CAA requirements and EPA has determined it is sufficient to provide for maintenance of the CO NAAQS over the course of the second 10-year maintenance period out to 2022.

EPA is also proposing to approve the State's Alternative Monitoring Strategy for the Billings CO maintenance area. We do not propose to approve application of the Alternative Monitoring Strategy in other areas of Montana with this action, as the Alternative Monitoring Strategy must be considered on a case-by-case basis specific to the circumstances of each particular CO maintenance area rather than broadly.

VI. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 10, 2014.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2014–28390 Filed 12–1–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0011; 4500030114]

RIN 1018–AZ44

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Western Distinct Population Segment of the Yellow-Billed Cuckoo (Coccyzus americanus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: On August 15, 2014, we, the U.S. Fish and Wildlife Service (Service), announced a proposal to designate critical habitat for the western distinct population segment of the yellow-billed cuckoo (western yellow-billed cuckoo) under the Endangered Species Act of 1973, as amended (Act). On November 12, 2014, the public comment period

was reopened for an additional 60 days until January 12, 2015. We now announce a public hearing in California. The public hearing will provide an opportunity for the public to provide comments and testimony on the proposed designation of critical habitat for the western yellow-billed cuckoo. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: We request that comments on this proposal be submitted by the close of business on January 12, 2015. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

Public Hearing: We will hold a public hearing on the proposed critical habitat rule on December 18, 2014; see **ADDRESSES** for location:

- Sacramento, CA: Public Hearing from 2 p.m. to 4 p.m. Registration to present oral comments on the proposed designation at the public hearing will begin at 1:30 p.m. prior to the start of the hearing.

ADDRESSES: *Document availability:* You may obtain a copy of the proposed rule, economics screening memo, and incremental effects memo on the Internet at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0011, or contact the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**), or by mail from U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing: The public hearing will be located in: Sacramento, California—Double Tree Inn, 2001 Point West Way, Sacramento, CA 95815.

Comment Submission: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R8–ES–2013–0011, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule link to locate the document. You may submit a comment by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2013–0011; Division of Policy and Directives Management; U.S. Fish & Wildlife Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Information Requested section below for more information).

FOR FURTHER INFORMATION CONTACT: For information about the proposed designation, contact Jennifer Norris, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825; by telephone 916–414–6600; or by facsimile 916–414–6712. Information is also available at the Sacramento Fish and Wildlife Office Web site at *http://www.fws.gov/sacramento.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On August 15, 2014, we published in the **Federal Register** a proposed rule to designate critical habitat for the western distinct population segment (DPS) of the yellow-billed cuckoo (western yellow-billed cuckoo) (*Coccyzus americanus*) under the Endangered Species Act (79 FR 48548). In total, approximately 546,335 acres (221,094 hectares) are being proposed for designation as critical habitat in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Texas, Utah, and Wyoming for the western yellow-billed cuckoo under the Act. During the public comment period, we received requests to hold a public hearing on the proposed designation. On November 12, 2014, we published in the **Federal Register** a notice reopening the comment period on the proposed critical habitat designation until January 12, 2015 (79 FR 67154).

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned Federal and State agencies, the scientific community, or any other interested party concerning the proposed critical habitat designation. Please see the Information Requested section of the August 15, 2014, proposed critical habitat rule for a list of the comments that we particularly seek (79 FR 48548–48549).

For more background on our proposed designation, see the August 15, 2014, **Federal Register** (79 FR 48548). The proposed rule is available at the Federal eRulemaking Portal at *http://www.regulations.gov* or the Sacramento Fish and Wildlife Office at *http://www.fws.gov/sacramento* (see **ADDRESSES**).

If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in our final rulemaking. Our final determination concerning this proposed rulemaking will take into consideration all written comments and any additional information we receive.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES.** We request that you send comments only by the methods described in **ADDRESSES.** If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.* Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed designation, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 20, 2014.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–28330 Filed 12–1–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 79, No. 231
Tuesday, December 2, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Missouri Advisory Committee for a Meeting To Discuss Panel Participants and Location Sites of Public Meeting on Police-Community Relations

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Missouri Advisory Committee (Committee) will hold a meeting on Monday, December 15, 2014, at 12:00 p.m. for the purpose of discussing panel participants and location sites of public meeting on police-community relations. At is meeting in November, the Committee approved a proposal that included holding a public meeting in St. Louis to hear testimony from community members, police representatives, government officials, and other experts on police-community relations in Missouri. At this meeting, the Committee will begin to discuss how to create balanced panel discussions.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–510–1786, conference ID: 9613952. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Member of the public are also entitled to submit written comments; the comments must be received in the regional office by January 15, 2014. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov*. Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Missouri Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov*, or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome

12:00 p.m. to 12:05 p.m.
S. David Mitchell, Chairman, Missouri Advisory Committee

Discussion of Possible Presenters at Public Meeting

12:05 p.m. to 12:40 p.m.
Missouri Advisory Committee

Discussion of Possible Venues

12:40 p.m. to 12:55 p.m.
Missouri Advisory Committee

Planning Next Steps

12:55 p.m. to 1:00 p.m.

Adjournment

1:00 p.m.

DATES: The meeting will be held on Monday, December 15, 2014, at 12:00 p.m. CST.

Public Call Information: Dial: 888–510–1786, Conference ID: 9613952.

Dated: November 25, 2014.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2014–28277 Filed 12–1–14; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Oregon Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Oregon Advisory Committee (Committee) to the Commission will convene on Thursday, December 18, 2014, at 1:00 p.m. and adjourn at approximately 2:00 p.m. The meeting will be held by teleconference. The purpose of the meeting is for the Committee to discuss its report on the status of civil rights.

This meeting is available to the public through the following toll-free call-in number: 877–446–3914, conference ID: 440519. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments. The comments must be received in the Western Regional Office by October 12, 2014. The mailing address is Western Regional Office, U.S. Commission on Civil Rights, 300 N. Los Angeles St., Suite 2010, Los Angeles, CA 90032. Persons wishing to email their comments may do so to *atrevino@usccr.gov*. Persons that desire additional information should contact Angelica Trevino, Western Regional Office, at (213) 894–3437.

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Western Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this Committee are advised to go to

the Commission's Web site, *www.usccr.gov*, or to contact the Western Regional Office at the above email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in November 25, 2014.

David Mussatt,

Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–28276 Filed 12–1–14; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; 2015 National Content Test

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before February 2, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Erin Love, Census Bureau, HQ–3H154E, Washington, DC 20233; (301) 763–2034 (or via email at *erin.s.love@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The 2015 National Content Test (NCT) is part of the research and development cycle leading up to the re-engineered 2020 Census. The 2015 NCT will help the Census Bureau achieve one of its Strategic Goals—developing a census that is cost-effective, improves coverage, and reduces operational risk.

The first objective of this test is to evaluate and compare different census content, including race and Hispanic origin, relationship, and within-household coverage. This will be the primary mid-decade opportunity to compare different content strategies prior to making final decisions about the content in the 2020 Census. The test will include a reinterview to further assess the accuracy and reliability of the question alternatives for race, origin, and within-household coverage.

The second objective is to test different contact strategies for optimizing self-response. This includes nine different approaches to encouraging households to respond and, specifically, to respond using the less costly and more efficient Internet response option. These approaches include altering the timing of the first reminder, use of email as a reminder, altering the timing for sending the mail questionnaire, use of a third reminder, and sending a letter in place of a paper questionnaire to non-respondents.

The third objective is to test different options for offering non-English materials. The goal is to provide language support for respondents with limited English proficiency. Options being explored include online Spanish questionnaires, dual-language English and Spanish paper questionnaires and letters, and additional questionnaire options and support in non-English languages.

Regarding the first objective, the classification of racial and ethnic responses to the decennial census by the Census Bureau adheres to the U.S. Office of Management and Budget's (OMB) October 30, 1997 "Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity" (see *www.whitehouse.gov/omb/fedreg_1997standards*). There are five minimum categories for data on race: "White," "Black or African American," "American Indian or Alaska Native," "Asian," and "Native Hawaiian or Other Pacific Islander." There are two minimum categories for data on ethnicity: "Hispanic or Latino" and "Not Hispanic or Latino." The OMB standards advise that respondents shall be offered the option of selecting one or more racial designations. The OMB standards also advise that race and ethnicity are two distinct concepts; therefore, Hispanics or Latinos may be any race.

The minimum categories for data on race and ethnicity for Federal statistics, program administrative reporting, and civil rights compliance reporting are defined by OMB as follows:

- American Indian or Alaska Native—A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- Asian—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- Black or African American—A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."
- Hispanic or Latino—A person of Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."
- Native Hawaiian or Other Pacific Islander—A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- White—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

The 1997 OMB standards state the minimum categories that must be used to collect and present federal data on race and ethnicity. Additionally, the 1997 OMB standards permit the collection of more detailed information on population groups, provided that any additional groups can be aggregated into the minimum standard set of categories. Currently, the Census Bureau collects additional detailed information on Hispanic or Latino groups, American Indian and Alaska Native tribes, Asian groups, and Native Hawaiian and Other Pacific Islander groups.

For example, responses to the race question such as "Navajo Nation," "Doyon," and "Mayan" are collected and tabulated in Census Bureau censuses and surveys, and can be aggregated into the total American Indian or Alaska Native population. Detailed responses to the race question such as "Chinese," "Asian Indian," and "Vietnamese" are collected and tabulated, and can be aggregated into the total Asian population. Responses to the ethnicity question such as "Mexican," "Puerto Rican," and "Cuban" are collected and tabulated in Census Bureau censuses and surveys, and can be aggregated into the total Hispanic or Latino population. Responses to the race question such as "Native Hawaiian," "Chamorro," or "Fijian" are collected and tabulated, and can be aggregated into the total

Native Hawaiian or Other Pacific Islander population.

The 2015 NCT will test ways to collect and tabulate detailed information for all groups, including data for White groups, such as German, Irish, and Lebanese, and data for Black groups, such as African American, Jamaican, and Nigerian, which have not been tabulated previously from the question on race. Responses to the race question such as "African American," "Jamaican," or "Nigerian" will be collected and tabulated, and can be aggregated to the total Black or African American population. Responses to the race question such as "German," "Irish," or "Lebanese" will be collected and tabulated, and can be aggregated into the total White population.

The 2015 NCT will also test a separate "Middle Eastern or North African" category and the collection of detailed groups such as "Lebanese," "Egyptian," and "Iranian." Following the current OMB standards, Middle Eastern and North African responses are classified as "White."

The results of the 2015 NCT will guide future collection and tabulation of detailed information for all race and ethnicity groups.

Plans for the 2020 Census call for the use of less costly and more efficient web-based response options to collect information, as opposed to a previous predominant reliance on paper-based questionnaires. One benefit of the online response mode is that it allows for more functionality and greater flexibility in designing questions compared to paper, which is constrained by space availability. With the advantage of new technology, the 2015 National Content Test will utilize web-based technology, such as internet, smart phone, tablet, and telephone to improve question designs and optimize reporting of detailed racial and ethnic groups (*e.g.*, Samoan, Iranian, Blackfeet Tribe, Filipino, Jamaican, Puerto Rican, Irish, etc.).

The web-based designs provide much more utility and flexibility for using detailed checkboxes and write-in spaces to elicit and collect data for detailed groups than traditional paper questionnaires, and will help collect data for both the broader OMB categories, as well as detailed responses across all groups.

Components of the Test

A. Race and Origin Content

The Census Bureau conducted an extensive research undertaking as part of the 2010 Census—the 2010 Census Race and Hispanic Origin Alternative Questionnaire Experiment (AQE) (for details, see *www.census.gov/2010census/news/press-kits/aqe/aqe.html*). The 2010 AQE examined alternative strategies for improving the collection of data on a race and Hispanic origin, with four goals in mind:

1. Increasing reporting in the standard race and ethnic categories as defined by the U.S. Office of Management and Budget;

2. Decreasing item non-response for these questions;

3. Increasing the accuracy and reliability of the results for this question; and

4. Eliciting detailed responses for all racial and ethnic communities (e.g., Chinese, Mexican, Jamaican, etc.).

The results of the AQE supported all of these objectives. Additionally, many individuals across communities liked the combined question approach. They believed it presented equity to the different categories. Some of the findings from this research include:

- Combining race and ethnicity into one question did not change the proportion of people who reported as Hispanics, Blacks, Asians, American Indians and Alaska Natives, or Native Hawaiians and Other Pacific Islanders.
- The combined question yielded higher response rates.
- The combined question increased reporting of detailed responses for most groups, but decreased reporting for others.
- The combined question better reflected self-identity.

The successful strategies from the AQE research have been employed in the design of the Census Bureau's mid-decade research. Four key dimensions of the questions on race and Hispanic origin are being tested in the 2015 NCT. These include question format, response categories, wording of the instructions, and question terminology.

Question Format

The 2015 NCT will evaluate the use of two alternative question format approaches for collecting data on race and ethnicity. One approach uses two separate questions: the first about Hispanic origin and the second about race ("separate questions"). The other approach combines the two items into one question about race and origin ("combined question"). The 2015 mid-decade research will test the approaches with new data collection methods, including internet, telephone, and in-person response.

1. Separate race and origin questions: This is a modified version of the race and Hispanic origin format used in the 2010 Census. Updates since the 2010 Census include added write-in spaces and examples for the "White" and "Black or African Am." response categories, removal of the term "Negro," and an instruction to select one or more boxes in the Hispanic origin question.

2. Combined question with checkboxes and write-ins on same screen: This is a modified version of the combined question approaches found to be successful in the 2010 AQE. Checkboxes are provided for the U.S. Office of Management and Budget (OMB) standard categories (per the 1997 Standards for the Classification of Federal Data on Race and Ethnicity) with a corresponding write-in space for each checkbox category. In this version, all write-in spaces are visible at all times. Each response category contains six example origins, which represent the diversity of the geographic definitions of the OMB category. For instance, the "Asian" category examples of Chinese, Filipino, Asian Indian, Vietnamese, Korean, and Japanese represent the six largest detailed Asian groups in the United States, reflecting OMB's definition of Asian ("A person having origins in any of the original peoples of the Far East, Southeast Asia, and the Indian subcontinent."). Respondents do not have to select an OMB checkbox, but may enter a detailed response in the write-in space without checking a category.

a. Combined question with checkboxes and write-ins on separate screens (Internet-only): In this version, the detailed origin groups are solicited on subsequent screens after the OMB response categories have been selected. On the first screen, the OMB checkbox categories are shown along with their six representative example groups. Once the OMB categories have been selected, one at a time, subsequent screens solicit further detail for each category that was chosen (*e.g.*, Asian), using a write-in space to collect the detailed groups (*e.g.*, Korean and Japanese). The intent is to separate mouse click tasks (checkbox categories) and typing tasks (write-ins) in an attempt to elicit responses that are more detailed. The same version was used as one of three race and origin Internet panels in the 2014 Census Test.

3. Combined question branching with detailed checkbox screens (Internet-only): This version is an alternative method of soliciting detailed origin groups using separate screens, detailed checkboxes, and write-in spaces. On the first screen, the OMB checkbox categories are shown along with their six representative example groups. Once the OMB categories have been selected, one at a time, subsequent screens solicit

further detail for each category, this time using a series of additional checkboxes for the six largest detailed groups (*e.g.*, Chinese, Filipino, Asian, Indian, Vietnamese, Korean, and Japanese) with a write-in space also provided to collect additional groups.

Race Response Categories

The 2015 National Content Test will evaluate the use of the Middle Eastern or North African (MENA) category in the race question. There will be two treatments for testing this dimension:

1. Use of MENA category: This treatment tests the addition of a MENA checkbox category to the race question. The MENA category is placed within the current category lineup, based on estimates of population size, between the categories for Native Hawaiians and Other Pacific Islanders and "Some other race." With the addition of this new category, the "White" example groups are revised. The Middle Eastern and North African examples of "Lebanese" and "Egyptian" are replaced with the European examples of "Polish" and of "French." The MENA checkbox category will have the examples of "Lebanese, Iranian, Egyptian, Syrian, Moroccan, Algerian, etc." All other checkbox categories and write-in spaces remain the same.

2. No separate MENA category: This treatment tests approaches without a separate MENA checkbox category, and represents the current OMB definition of White ("A person having origins in any of the original peoples of Europe, the Middle East, or North Africa."). Here we will provide examples of Middle Eastern and North African origins ("Lebanese" and "Egyptian") with European origin groups as part of the "White" racial category.

Wording of the Instructions

1. "Mark [X] one or more boxes": The current paper version of the instructions on paper states, "Mark [X] one or more boxes AND print your specific origin(s)."

2. "Mark all that apply/You may mark multiple groups": In this version, the instruction is modified to "Mark all boxes that apply AND print the specific [origin(s)/ethnicities] in the spaces below. Note, you may report more than one group." Recent qualitative focus groups and cognitive research (*e.g.*, 2010 AQE research; 2013 Census Test research) found that respondents frequently overlook the instruction to "Mark" [X] one or more boxes. The research found that some respondents may have stopped reading the instruction after noticing the visual cue [X] and proceeded directly to do just that—mark a box—overlooking the remainder of the instruction. The new instruction ("Mark all boxes that apply") is an attempt to improve the clarity of the question and make it more apparent that more than one group may be selected.

Question Terms

1. "Origin" term: The current version of the race and Hispanic origin questions use the terms "race" and/or "origin" to describe the concepts and groups in the question stem, instructions, and examples. For instance, in the combined race and Hispanic origin approach, the question stem is "What is your race or origin?" In addition, prior to each write-in field, respondents are instructed to "Print specific origin(s), for example . . ."

2–3. Alternative terms: Recent qualitative focus groups and qualitative research (*e.g.*, 2010 AQE research; 2013 Census Test research; cognitive pretesting for 2016 American Community Survey Content Test) found that the term "origin" is confusing or misleading to many respondents, who may think it is asking about where they immigrated from or where they were born. Two alternative options are being explored in cognitive testing and usability research. One approach tests the use of the term "ethnicities" along with "race" (*e.g.*, "Print the specific races(s) and/or ethnicities . . ."). The other approach tests the removal of the terms altogether from the question stem, instructions, and examples. Instead, a general approach asks, "Which categories describe this person?" The exact terminology to be used for the alternative version is pending cognitive testing and usability results later this year, which will inform the wording to be used in the 2015 NCT.

B. Relationship Content

Two versions of the relationship question will be tested. Both versions are the same as those used in a split-sample in the 2014 Census Test, with no changes. The new relationship categories have also been tested in other Census Bureau surveys including the American Housing Survey, American Community Survey, and the Survey of Income and Program Participation (currently used in production). Although research to date has been informative, leading to the development of the revised relationship question, additional quantitative testing is needed. Since the incidence of some household relationships—such as same-sex couples—is relatively low in the general population, the revised question needs to be tested with large, representative samples prior to routinely including them in the 2020 Census questionnaire.

The first version uses the 2010 Census relationship question response options, but in a new order, starting with "husband or wife" and then the "unmarried partner" category. This version also re-introduces the foster child category, which was removed from the 2010 Census form due to space issues.

The second version includes the same basic response options as the 2010 Census version, but modifies/expands the "husband or wife" and "unmarried partner" categories to distinguish between same-sex and opposite-sex relationships.

C. Coverage Content (Internet Only)

The 2012 National Census Test experimented with several methods to improve accurate within-household coverage for Internet respondents. One benefit of the online response mode is that it allows for more functionality and greater flexibility in designing questions compared to paper, which is constrained by space availability. The 2012 test included a coverage follow-up reinterview to evaluate the different Internet design options, but some results were inconclusive. In the 2015 NCT, two designs will be tested to compare different approaches for helping respondents provide a more accurate roster of household residents.

The first approach is the "Rules-Based" approach, and will allow us to see whether the presence of a question asking the number of people in the household along with the residence rule instructions helps respondents create an accurate roster. This is similar to the approach used across all modes in Census 2000 and the 2010 Census, where the respondent was expected to understand our residence rules and apply them to their household. This is followed by a household-level question that probes to determine if any additional people not listed originally should be included for consideration as residents of the household (several types of people and living situations are shown in a bulleted list).

The "Question-Based" approach allows us to ask guided questions to help improve resident information. Respondents are not shown the residence rule instructions and are only asked to create an initial roster of people they consider to be living or staying at their address on Census Day. This is followed by several short household-level questions about types of people and living situations that might apply to

someone in the household that was not listed originally.

D. Optimizing Self Response

The nine proposed contact strategies for optimizing self response (OSR) are summarized as follows:

Internet Push (Control): This is the standard Internet Push strategy used in the most recent series of self response tests, including the 2014 Census Test. This panel will serve as a control panel against which to compare the experimental strategies. There will be nine treatments as part of the OSR test.

Internet Push With Early Postcard: The motivation for this panel is to study the timing of reminders. The hypothesis is that sending the first reminder sooner (closer to the initial Internet push) would provide for a better connection between the two mailings, and could increase response. A side benefit is that this could also reduce the volume of later targeted mailings since responses may be quicker overall.

The motivation for the following sequence of three panels is based on recent American Community Survey (ACS) research, which has found depressed self response rates among certain respondents/areas with lower Internet usage. Testing the delivery of the paper questionnaires at various points in the response process will allow us to have complete response measures under several scenarios for the cost/benefit analysis needed to inform 2020 Census planning. Although these strategies may not make sense for everyone in 2020, using a responsive design and tailoring the contact strategy for certain geographic areas or populations may be beneficial.

- *Internet Push With Early Questionnaire:* questionnaire sent at third mailing, one week sooner
- *Internet Push With Even Earlier Questionnaire:* questionnaire sent at second mailing, two weeks sooner
- *Internet Choice:* questionnaire sent at first mailing, providing a choice of Internet or paper from the beginning

Internet Push With Postcard as Third Reminder: The motivation for this panel is to further encourage self response, after the questionnaire mailing, prior to nonresponse follow-up. Numerous survey research studies have concluded that, while there is a point of diminishing returns, further reminders will inevitably increase self response rates.

Internet Push Postcard: The motivation for this panel is to study the impact of sending a postcard at the first mailing instead of a letter. There are two potential benefits. First is the possible cost savings of printing and mailing a postcard compared to the envelope package (with letter and instruction card). Second is the potential for increased self response because reading a postcard requires less effort by a respondent. In this panel, we send a letter at the third contact (sent to non-respondents only), in place of a postcard, to vary the types of contacts received.

Internet Push With Early Postcard and Second Letter Instead of Mail Questionnaire: The motivation for testing an approach in which we do not send a mail questionnaire is to address the high-level goal of greatly reducing paper responses in the 2020 Census. By testing an approach in which we send an Internet push letter in place of a paper questionnaire at the fourth mailing, we will have a more robust set of response measures for informing cost/benefit analyses.

Internet Push With Postcard and Email as 1st Reminder (same time): The motivation for this panel is to determine if we can take advantage of the email addresses in the supplemental contact frame maintained by the Center for Administrative Records Research and Applications. The hypothesis is that by sending a postcard and email at the same time, we may be able to elicit increased response.

E. Language

In the two mailings that contain a letter for each Optimizing Self response strategy, three different methods will be used to encourage response. In particular, by altering the language support provided in the letter, the goal is to increase response for respondents with limited English proficiency.

The control panel is similar to the 2014 Census Test design, in which the mailing materials are in English with a single Spanish sentence directing respondents to the Web site or the telephone assistance line.

One of the goals of language research is to maximize the number of non-English speakers that receive the same message as English speakers prior to going online to respond. Two panels provide equality between the English and Spanish content in the letter and test whether one method is better at eliciting Spanish responses. The swim-lane design has been used in the past, such as with the bilingual questionnaire in the 2010 Census. The dual-sided letter provides English content on one side and Spanish content on the other side. In addition, because research has shown that Spanish-speaking respondents do not always open the mailings because they may not know that language resource information is provided inside, the outgoing envelope for both panels will include the census test Web site URL and a brief message in both languages.

This test will also explore additional options for non-English speakers to complete the questionnaires.

F. Content Reinterview

A sub-sample of respondents from the 2015 NCT will be selected for a content reinterview, focused on race and origin and within-household coverage, with a goal of assessing accuracy and reliability of the different designs. Reinterviews are conducted with a sub-sample of respondents, by asking more detailed questions on question topics, in order to assess the accuracy of the responses.

II. Method of Collection

The initial mail-out is planned for late August 2015. This contact will explain why we are conducting the mandatory 2015 NCT, assure respondents that their answers are confidential, and inform them of the measures we take to keep their personal information secure. The second mail-out is considered a reminder and is sent to all housing units. All contacts after the second mailing are sent to non-respondents only.

Respondents are encouraged to respond to the 2015 NCT by Internet but may also be able to provide information by phone. Many will also receive a paper questionnaire at some point in the mail-out strategy. The test will be conducted nationally in all 50 U.S. states, the District of Columbia, and Puerto Rico.

III. Data

OMB Control Number: None.

Form Number: TBD.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1.3 million households. (1.2 million initial response + 100,000 reinterview).

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 216,667.

Estimated Total Annual Cost: There is no cost to respondents except for their time to respond.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 25, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–28247 Filed 12–1–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–85–2014]

Foreign-Trade Zone 116—Port Arthur, Texas; Expansion of Subzone 116B; Total Petrochemicals & Refining USA, Inc.; Port Arthur and Jefferson County, Texas

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Foreign-Trade Zone of Southeast Texas, Inc., grantee of FTZ 116, requesting an expansion of Subzone 116B on behalf of Total Petrochemicals & Refining USA, Inc. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on November 25, 2014.

Subzone 116B was approved on September 18, 1995 (Board Order 772, 60 FR 49564, 9/26/95). The subzone (1,457 acres) currently consists of four sites located in Port Arthur and Jefferson County: *Site 1* (1,244 acres)—main refinery complex located along the Neches River at State Farm to Market Highway 366 and 32nd St., Port Arthur; *Site 2* (19 acres)—West Port Arthur Tank Farm located at Roosevelt and 53rd Streets, Port Arthur; *Site 3* (194 acres)—refinery expansion site, located adjacent to the refinery at State Farm to Market Hwy 366, Port Arthur; and, *Site 4*—Sun Marine Terminal-Nederland tank storage facility (leased storage) located along the Neches River in Nederland.

The current request would add a pipeline that originates from the subzone's leased storage facility at Site 4 to the main refinery located at Site 1, as described in the application. No additional authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is January 12, 2015. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 26, 2015.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: November 25, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–28416 Filed 12–1–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Domestic and International Clients Export Services and Customized Forms

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 2, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Joe Carter, Office of Strategic Planning, 1999 Broadway, Suite 2205 Denver, CO 80220, (303) 844–5656, *joe.carter@trade.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The International Trade Administration's Global Markets (GM) is seeking approval to renew the currently approved OMB control number: 0625–0143. These collections include all client intake, events/activities and export success forms. This comprehensive information collection will cover all aspects of a U.S. organization's life-cycle with GM.

GM is mandated by Congress to help U.S. organizations, particularly small and medium-sized organizations, export their products and services to global markets. As part of its mission, GM provides market entry/expansion services and trade events to U.S. organizations.

The Domestic and International Clients Export Services and Customized Forms are needed to collect information to enable, but not limited to small and medium sized, U.S. organizations to efficiently and effectively enhance their ability to determine which international organizations are most suited for their exporting expansion efforts.

The key to effectively and efficiently assist U.S. organizations export is identifying and verifying potential international buyers of U.S. goods and services. The categories of questions are: Contact information, organization information, organization type, agreements and confirmations, objectives, products and services, exporting experience, marketing, events and activities, trade fair/show, certified trade missions, trade missions, advocacy, environment, and education. GM asks only those questions that provide the required information to assist GM in fulfilling a client's objective for a requested service and/or event/activity.

As GM moves forward, we understand the importance and need for strategic planning and integration of future technology and initiatives that relate to GM programs and metrics with the types of information collected from clients to conduct those programs. Additionally, the most important,

positive impact is the ability to quickly change and ask pertinent questions to assist clients with their exporting needs regarding matchmaking services, organization promotions, trade missions, market research and other trade promotional activities.

II. Method of Collection

The information will be collected through Export.gov or sent via email and then completed by client electronically.

III. Data

OMB Control Number: 0625–0143.

Form Number(s): ITA–4096P.

Type of Review: Regular submission; renewal of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50,000.

Estimated Time per Response: 5–25 minutes.

Estimated Total Annual Burden Hours: 20,833 hours.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 26, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–28352 Filed 12–1–14; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended ("the Act"), may request, in accordance with 19 CFR 351.213, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order ("APO") to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department finds that determinations concerning whether particular companies should be "collapsed" (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties

additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after December 2014, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its "Opportunity to Request Administrative Review" notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity To Request A Review: Not later than the last day of December 2014,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in December for the following periods:

	Period of review
Antidumping Duty Proceedings	
Brazil: Carbon Steel Butt-Weld Pipe Fittings, A–351–602	12/1/13–11/30/14
Chile: Certain Preserved Mushrooms, A–337–804	12/1/13–11/30/14
India:	
Carbazole Violet Pigment 23, A–533–838	12/1/13–11/30/14
Certain Hot-Rolled Carbon Steel Flat Products, A–533–820	12/1/13–11/30/14
Commodity Matchbooks, A–533–848	12/1/13–11/30/14
Stainless Steel Wire Rod, A–533–808	12/1/13–11/30/14
Indonesia: Certain Hot-Rolled Carbon Steel Flat Products, A–560–812	12/1/13–11/30/14
Japan:	
Prestressed Concrete Steel Wire Strand, A–588–068	12/1/13–11/30/14
Welded Large Diameter Line Pipe, A–588–857	12/1/13–11/30/14
Republic of Korea: Welded ASTM A–312 Stainless Pipe, A–580–810	12/1/13–11/30/14
Socialist Republic of Vietnam: Uncovered Innerspring Units, A–552–803	12/1/13–11/30/14
South Africa: Uncovered Innerspring Units, A–791–821	12/1/13–11/30/14
Taiwan:	
Carbon Steel Butt-Weld Pipe Fittings, A–583–605	12/1/13–11/30/14
Steel Wire Garment Hangers, A–583–849	12/1/13–11/30/14
Welded ASTM A–312 Stainless Steel Pipe, A–583–815	12/1/13–11/30/14
The People's Republic of China:	
Carbazole Violet Pigment 23, A–570–892	12/1/13–11/30/14
Cased Pencils, A–570–827	12/1/13–11/30/14
Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled into Modules, A–570–979	12/1/13–11/30/14
Hand Trucks and Parts Thereof, A–570–891	12/1/13–11/30/14
Honey, A–570–863	12/1/13–11/30/14
Malleable Cast Iron Pipe Fittings, A–570–881	12/1/13–11/30/14
Multilayered Wood Flooring, A–570–970	12/1/13–11/30/14
Porcelain-On-Steel Cooking Ware, A–570–506	12/1/13–11/30/14
Silicomanganese, A–570–828	12/1/13–11/30/14
Countervailing Duty Proceedings	
India:	
Carbazole Violet Pigment 23, C–533–839	1/1/13–12/31/13
Certain Hot-Rolled Carbon Steel Flat Products, C–533–821	1/1/13–12/31/13
Commodity Matchbooks, C–533–849	1/1/13–12/31/13
Indonesia: Certain Hot-Rolled Carbon Steel Flat Products, C–560–813	1/1/13–12/31/13
Thailand: Certain Hot-Rolled Carbon Steel Flat Products, C–549–818	1/1/13–12/31/13
The People's Republic of China:	
Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled into Modules, C–570–980	1/1/13–12/31/13
Multilayered Wood Flooring, C–570–971	1/1/13–12/31/13

Suspension Agreements

None

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) the Department clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

Further, as explained in *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013), the Department clarified its practice with regard to the conditional review of the non-market economy (NME) entity in administrative reviews of antidumping duty orders. The Department will no longer consider the NME entity as an exporter conditionally subject to administrative reviews. Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[3] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity).

Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS") on the IA ACCESS Web site at *http://iaaccess.trade.gov.*[4] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of December 2014. If the Department does not receive, by the last day of December 2014, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: November 19, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–28413 Filed 12–1–14; 8:45 am]

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[2] *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/.*

[3] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[4] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From India

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On October 10, 2014, the Department of Commerce (the Department) initiated a changed circumstances review and published a notice of preliminary results of changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India.[1] In that notice, we preliminarily determined that Premier Marine Products Private Limited (PPL) is the successor-in-interest to Premier Marine Products (PMP) for purposes of determining antidumping duty cash deposits and liabilities. No interested party submitted comments on, or requested a public hearing to discuss, the *Initiation and Preliminary Results.* For these final results, the Department continues to find that PPL is the successor-in-interest to PMP.

DATES: *Effective Date:* December 2, 2014.

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse or Stephen Banea, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–6345 or (202) 482–0656, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 22, 2014, PPL requested that the Department conduct an expedited changed circumstances review under 19 CFR 351.221(c)(3)(iii) to confirm that PPL is the successor-in-interest to PMP for purposes of determining antidumping duty cash deposits and liabilities.

On October 10, 2014, the Department initiated this changed circumstances review and published the notice of preliminary results, determining that PPL is the successor-in-interest to PMP. *See Initiation and Preliminary Results,* 79 FR at 61290. In the *Initiation and Preliminary Results,* we provided all

[1] *See Certain Frozen Warmwater Shrimp from India: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review,* 79 FR 61290 (October 10, 2014) (*Initiation and Preliminary Results*).

interested parties with an opportunity to comment or request a public hearing regarding our preliminary finding that PPL is the successor-in-interest to PMP. We received no comments or requests for a public hearing from interested parties within the time period set forth in the *Initiation and Preliminary Results*.

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp.[2] The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.0003, 0306.17.0006, 0306.17.0009, 0306.17.0012, 0306.17.0015, 0306.17.0018, 0306.17.0021, 0306.17.0024, 0306.17.0027, 0306.17.0040, 1605.21.1030, and 1605.29.1010. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

Final Results of Changed Circumstances Review

For the reasons stated in the *Initiation and Preliminary Results*, and because we received no comments from interested parties to the contrary, the Department continues to find that PPL is the successor-in-interest to PMP. As a result of this determination, we find that PPL should receive the cash deposit rate previously assigned to PMP, as a part of the Liberty Group of companies, in the most recently completed review of the antidumping duty order on shrimp from India.[3] Consequently, the Department will instruct U.S. Customs and Border Protection to suspend liquidation of all shipments of subject merchandise produced and/or exported by PPL and entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register** at 2.49 percent, which is the current antidumping duty cash deposit rate for PMP, as a part of the Liberty Group.[4] This cash deposit requirement shall remain in effect until further notice.

We are issuing this determination and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 351.221(c)(3).

[2] For a complete description of the scope of the order, *see Initiation and Preliminary Results*.

[3] *See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 79 FR 51309 (August 28, 2014).

[4] *Id.*

Dated: November 21, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–28417 Filed 12–1–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–933]

Frontseating Service Valves From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 27, 2014, the Department of Commerce ("the Department") published the preliminary results of the administrative review of the antidumping duty on frontseating service valves from the People's Republic of China ("PRC").[1] The period of review ("POR") is April 1, 2012, through March 31, 2013. The review covers two exporters of subject merchandise, Zhejiang DunAn Hetian Metal Co., Ltd. ("DunAn") and Zhejiang Sanhua Co., Ltd. ("Sanhua"). The Department continues to find that DunAn did not have reviewable entries during the POR. Additionally, we find that Sanhua made no sales in the United States at prices below normal value ("NV"). Based on our analysis of the comments received, we made changes to our margin calculations for Sanhua. The final weighted-average dumping margin for this review is listed below in the section entitled "Final Results of the Review."

DATES: *Effective Date:* December 2, 2014.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4243.

Background

On May 27, 2014, the Department published the preliminary results of the subject administrative review of the order.[2] At that time, we invited interested parties to comment on our preliminary results.

Subsequent to the *Preliminary Results*, the following events occurred. On June 2, 2014, Sanhua provided comments on new factual information contained in the *Preliminary Results*.[3] On June 25, 2014, Sanhua requested a hearing.[4] On June 26, 2014, Sanhua filed a case brief.[5]

On October 14, 2014, we rejected Sanhua's post-preliminary submissions referenced above.[6] On the same date, the Department placed additional Bulgarian surrogate value ("SV") data on the record, and set the briefing and hearing schedule for the case.[7] On October 25, 2014, Sanhua filed its case brief.[8] Sanhua was the only party to file a case or rebuttal brief in this segment of the proceeding. Sanhua withdrew its hearing request on October 28, 2014.[9] On August 13, 2014, we extended the deadline for completing the final results until November 24, 2014, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act").[10]

Scope of the Order

The merchandise covered by this order is frontseating service valves, assembled or unassembled, complete or incomplete, and certain parts thereof. Frontseating service valves are classified under subheading 8481.80.1095, and also have been classified under subheading 8415.90.80.85, of the

[1] *See Frontseating Service Valves From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; Review; Preliminary Determination of No Shipments;* 2012–2013, 79 FR 30081 (May 27, 2014) ("*Preliminary Results*").

[2] *Id.*

[3] *See* letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A–570–933; Rebuttal, Clarification or Correction of Factual Information by Zhejiang Sanhua Co., Ltd.," dated June 2, 2014.

[4] *See* letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A–570–933; Request for a Hearing by Zhejiang Sanhua Co., Ltd.," dated June 25, 2014.

[5] *See* letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A–570–933; Case Brief by Zhejiang Sanhua Co., Ltd.," dated June 26, 2014.

[6] *See* letter to Sanhua, "Frontseating Service Valves from the People's Republic of China: Rejection of Zhejiang Sanhua Co., Ltd. ("Sanhua")'s Submissions of June 2, 2014, and June 26, 2014," dated October 14, 2014.

[7] *See* Memorandum to the File, "2012–2013 Administrative Review of the Antidumping Duty Order on Frontseating Service Valves from the People's Republic of China: Placing Additional Surrogate Value Information on the Record After the Preliminary Results," dated October 14, 2014.

[8] *See* letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A–570–933; Case Brief of Zhejiang Sanhua Co., Ltd.," dated October 25, 2014.

[9] *See* letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A–570–933; Withdrawal of Hearing Request," dated October 28, 2014.

[10] *See* Memorandum to Christian Marsh, "Frontseating Service Valves from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated August 13, 2014.

Harmonized Tariff Schedule of the United States ("HTSUS"). It is possible for frontseating service valves to be manufactured out of primary materials other than copper and brass, in which case they would be classified under HTSUS subheadings 8481.80.3040, 8481.80.3090, or 8481.80.5090. In addition, if unassembled or incomplete frontseating service valves are imported, the various parts or components would be classified under HTSUS subheadings 8481.90.1000, 8481.90.3000, or 8481.90.5000. The HTSUS subheadings are provided for convenience and customs purposes.[11] The written description is dispositive.

Final Determination of No Reviewable Entries

As noted in the *Preliminary Results*, we received a no-shipment certification from DunAn.[12] The company reported that it made no shipments of subject merchandise to the United States during the POR. U.S. Customs and Border Protection ("CBP") confirmed that it did not identify evidence of shipments from DunAn. Following publication of the *Preliminary Results*, we received no comments from interested parties regarding DunAn. As a consequence, and because the record contains no evidence to the contrary, we continue to find that DunAn did not make reviewable entries during the POR. Accordingly, consistent with the Department's refinement to its assessment practice in nonmarket economy ("NME") cases, the Department finds that it is appropriate not to rescind the review in these circumstances, but rather to complete the review with respect to DunAn and issue appropriate instructions to CBP based on the final results of the review.[13]

Analysis of Comments Received

All issues raised in the single case brief filed in this review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS").[14] ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/enforcement/*. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on an analysis of the comments received from interested parties and a review of the record, the Department has made the following changes in the margin calculation:

- We derived the SVs for all factors of production, with the exception of surrogate financial ratios, using Bulgaria as the surrogate country.[15] Specifically, we made the following adjustments:
  - We based the SVs for direct materials and packing materials on Bulgarian import statistics recorded in the Global Trade Atlas ("GTA"). We made inflation adjustments, as appropriate;
  - We based the SV for electricity on data derived from the National Institute of Statistics (Bulgaria) Electricity Prices covering the POR. We valued water using the average water rates for industrial consumers reported by the Bulgarian State Energy Regulatory Commission for the POR.
  - We based the SV for direct, indirect and packing labor on the Chapter 6A, industry-specific ILO data for Bulgaria from 2007, for Sub-Classification 28, which is described as "Manufacture of Fabricated Metal Products, except Machinery and Equipment. We made adjustments for inflation as appropriate.
  - We valued international freight using International freight price quotes from the Descartes Web site covering industrial plumbing supplies, valves, and valve parts, brass, iron, & copper, N.O.S., and valves and valve parts, N.O.S., available at *http://rates.descartes.com*.
  - We valued brokerage and handling expenses and truck freight using information u published in the World Bank's *Doing Business 2014, Economy Profile: Bulgaria*.

  See Comment 1 of the accompanying Issues and Decision Memorandum.
- We revised the determination of the value-added tax ("VAT") adjustment as a percentage of entered value ("ENTVALUE"). *See* Comment 5 of the accompanying Issues and Decision Memorandum.

Final Results of the Review

As a result of this review, we determine that the following weighted-average dumping margin exists for the period April 1, 2012, through March 31, 2013:

Exporter	Weighted-Average Margin (percentage)
Zhejiang Sanhua Co., Ltd.	0.00%

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b).[16] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review for each individual assessment rate calculated in the final results of this review that is above *de minimis* (*i.e.*, at or above 0.50 percent). Pursuant to 19 CFR

[11] A full written description of the scope of the order is contained in the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Frontseating Service Valves from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2012–2013 Administrative Review" ("Issues and Decision Memorandum"), which is hereby adopted by this notice and incorporated herein by reference.

[12] *See Preliminary Results*, 79 FR at 30081.

[13] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011) ("*NME Antidumping Proceedings*").

[14] "On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System ("IA ACCESS") to AD and CVD Centralized Electronic Service System ("ACCESS"). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov*. The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014)."

[15] *See* Memorandum to the File, "Antidumping Duty Administrative Review of Frontseating Service Valves from the People's Republic of China: Factor Valuation for the Final Results of Review," dated concurrent with this notice.

[16] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8103 (February 14, 2012).

351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent).

The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the NME-wide rate. For a full discussion of this practice, *see NME Antidumping Proceedings.*

Cash Deposit Requirements

Because the antidumping duty order on frontseating service valves from the PRC has been revoked,[17] the Department will not issue cash deposit instructions at the conclusion of this administrative review.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

In accordance with 19 CFR 351.305(a)(3), this notice serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under the APO. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These final results of review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 24, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Issues
   - Comment 1: The Use of SV Data from the Primary Surrogate Country
   - Comment 2: The Department's Adjustments to Sanhua's Scrap Offset
   - Comment 3: Removal from the Record of Rebuttal Factual Information Regarding the Use of Differential Pricing in the Preliminary Results
   - Comment 4: Use of the Differential Pricing Analysis in the *Preliminary Results*
   - Comment 5: Treatment of Value-Added Tax ("VAT") for U.S. Sales
5. Recommendation

[FR Doc. 2014–28415 Filed 12–1–14; 8:45 am]

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[17] *See Frontseating Service Valves from the People's Republic of China: Final Results of Sunset Review and Revocation of Antidumping Duty Order*, 79 FR 27573 (May 14, 2014).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD648

Pacific Island Fisheries; Stock Assessment Review; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: NMFS will convene a meeting to review a draft 2014 stock assessment update for main Hawaiian (MHI) Deep 7 bottomfish.

DATES: The meeting will be held on Tuesday, December 9, through Friday, December 12, 2014, starting at 9 a.m. each day. The meeting will conclude each day at 4 p.m., or when business for the day has been completed. See **SUPPLEMENTARY INFORMATION** for the daily meeting agenda.

ADDRESSES: On Tuesday, December 9, and Wednesday, December 10, 2014, the meeting will be held at the NMFS Honolulu Service Center at Pier 38, 1129 N. Nimitz Hwy., Suite 220, Honolulu, HI 96817. On Thursday, December 11, and Friday, December 12, 2014, the meeting will be held at the University of Hawaii Campus Center, 2465 Campus Road, Honolulu, HI 96822.

FOR FURTHER INFORMATION CONTACT: Gerard Dinardo, NMFS Pacific Islands Fisheries Science Center, telephone: (808) 725–5397.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to review a draft 2014 stock assessment update for MHI Deep 7 bottomfish, which uses up-to-date re-audited bottomfish catch and effort data from Hawaii state commercial catch reports for the years 1948–2013. This assessment update used the previous benchmark assessment data analysis, modeling, and stock projection approaches with improved CPUE standardization.

At this meeting, a team of reviewers provided by the Center for Independent Experts or CIE (*www.ciereviews.org*) will review the assessment methods, input data and parameters, including the adequacy of the model and model outputs, and suggest research priorities to improve understanding of essential population and fishery dynamics. We invite the public to attend this meeting to provide information and clarification if requested by the CIE reviewers.

Meeting Agenda

Tuesday, December 9, 2014

1. Introduction
2. Background Information—Objectives and Terms of Reference
3. Fishery
   a. Fishery Operations
   b. Fishery Management
4. Data
   a. State of Hawaii System
   b. Biological Data
   c. Other Data

Wednesday, December 10, 2014

5. Review of Stock Assessment

Thursday, December 11, 2014

6. Continue Review of Assessment
7. Panel Discussions (session closed to public)

Friday, December 12, 2014

8. Panel Discussions (session closed to public)
9. Review Panel Reports on Findings and Recommendations
10. Adjourn

The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gerard Dinardo, NMFS Pacific Islands Fisheries Science Center, (808) 725–

5397 (voice) or (808) 725–5475 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 28, 2014.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–28447 Filed 11–28–14; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD602

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Rocky Intertidal Monitoring Surveys on the South Farallon Islands, California

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the National Ocean Service's Office of National Marine Sanctuaries Gulf of the Farallones National Marine Sanctuary (GFNMS) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to rocky intertidal monitoring work and searching for black abalone, components of the Sanctuary Ecosystem Assessment Surveys. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to GFNMS to incidentally take, by Level B harassment only, marine mammals during the specified activity.

DATES: Comments and information must be received no later than January 2, 2015.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Pauline@noaa.gov.* NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 25-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental/* without change. All Personal Identifying Information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/*. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking, other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as ". . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: "Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]."

Summary of Request

On August 18, 2014, NMFS received an application from GFNMS for the taking of marine mammals incidental to rocky intertidal monitoring work and searching for black abalone. NMFS determined that the application was adequate and complete on August 29, 2014.

GFNMS proposes to continue rocky intertidal monitoring work and the search for black abalone in areas previously unexplored for black abalone from January 16 through January 23, 2015. All work will be done only during daylight minus low tides. This is a long-term study that began in 1992. This IHA, if issued, would be effective from January 10 through January 30, 2015, to allow for flexibility in the sampling schedule. Twelve sites are proposed for sampling. The following specific aspects of the proposed activities are likely to result in the take of marine mammals: Presence of survey personnel near pinniped haulout sites and approach of survey personnel towards hauled out pinnipeds. Take, by Level B harassment only, of individuals of five species of marine mammals is anticipated to result from the specified activity.

NMFS previously issued an IHA to GFNMS for this activity on November 8, 2012. The IHA was effective from November 8, 2012, through November 7, 2013. However, GFNMS did not conduct any abalone sampling during this time period. Therefore, no take occurred. NMFS subsequently issued a **Federal Register** Notice on November 27, 2013 for a proposed incidental harassment authorization for GFNMS to conduct monitoring activities from January 20 to February 8, 2014. GFNMS determined that it would be unable to undertake the described monitoring activities during that period. Therefore, an IHA was not issued, and no take occurred because the project did not go forward.

Description of the Specified Activity

Overview

Since the listing of black abalone as "endangered" under the U.S. Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*), NMFS has requested that GFNMS explore as much of the shoreline as possible, as well as document and map the location of

quality habitat for black abalone and the location of known animals. This listing prompted the need to expand the search for black abalone into other areas on the South Farallon Islands (beyond those that have been studied since 1992) to gain a better understanding of the abundance and health of the black abalone population in this remote and isolated location. The monitoring is planned to remain ongoing, and efforts to assess the status and health of the black abalone population on the South Farallon Islands may take several years, and perhaps decades. This is because black abalone tend to be very cryptic and difficult to find, especially when they are sparse and infrequent in occurrence. In order for the assessment of black abalone to be more comprehensive, GFNMS needs to expand shore searches in areas beyond the proximity of their quantitative quadrat sampling areas and also into new areas on Southeast Farallon and Maintop (West End) Islands.

Rocky intertidal monitoring on the Farallon Islands is now a component of the GFNMS Sanctuary Ecosystem Assessment Surveys (SEAS) long-term monitoring program and is a necessity to the management and protection of the sanctuary. All GFNMS SEAS monitoring projects are designed to provide documentation on the density and biodiversity of sanctuary natural resources for condition analyses, particularly for a baseline in the event of a major natural or human-induced perturbation. This program has and continues to acquire information on seasonal and annual changes of intertidal species abundances in 1–3 visits per year. The monitoring data, decades from now, can also be used to assess trends and changes from global climate change and ocean acidification, based on range extensions, changes in biodiversity, and changes in density of calcium carbonate-containing organisms.

Detailed Description of Activities

Routine shore activity will continue to involve the use of only non-destructive sampling methods to monitor rocky intertidal algal and invertebrate species abundances (see Figure 2 in GFNMS' application). At each sampling site, there are three to four permanent 30 x 50 cm (12 x 20 in) quadrat sites that occur in the low, middle, and upper elevation tidal zones (marked by white epoxy pads in the quadrat corners). Three to four random quadrats (unmarked) are also sampled at each site every survey, if time permits. Fifty randomly selected points within each permanent and random quadrat are sampled, using methods described by Foster *et al.* (1991) and Dethier *et al.* (1993). All algal and sessile macroinvertebrate species under each sampling point (loci) are recorded. A photograph is also taken of each labeled quadrat. When completed, a shore walk in the immediate proximity is done by the sampling team to search for select large invertebrates. The length of the shoreline searched in the shore walks is typically about 30 m (98 ft), but plans are to expand this search effort over larger areas for abalone and in more areas.

Inaccessible shore areas will be surveyed by boat up to once each year, dependent on boat availability and weather conditions. This effort includes the Middle and North Farallon Islands. In this effort, the boat navigates to within 15–100 m (49–328 ft) of the shore, and intertidal species that can be seen through binoculars are recorded (presence/absence). Point Blue (formerly named PRBO Conservation Science) continues its year round pinniped and seabird research and monitoring efforts on the South Farallon Islands, which began in 1968, under MMPA scientific research permits and IHAs. GFNMS biologists will gain access to the sites via boats operated by Point Blue, with disturbance and incidental take authorized via IHAs issued to Point Blue. For this reason, GFNMS has not requested authorization for take from disturbance by boat, as incidental take from that activity is authorized in a separate IHA.

Dates and Duration

The sampling, photographic documentation, and shore walks for the period of this IHA have been scheduled to occur from January 16 through January 23, 2015. Each survey will last for approximately 4 to 8 days. All work will be done only during daylight minus, low tides. Each location (as listed in Tables 2 and 3 in GFNMS' application) will be visited/sampled by five to six biologists, for a duration of 3–4 hours, one to two times each minus tide cycle.

Specified Geographic Region

The Farallon Islands consists of a chain of seven islands located approximately 48 km (30 mi) west of San Francisco, near the edge of the continental shelf and in the geographic center of the GFNMS (see Figure 1 in GFNMS' application). The land of the islands above the mean high tide mark is designated as the Farallon National Wildlife Refuge (managed by the U.S. Fish and Wildlife Service [USFWS]), while the shore and subtidal below are in GFNMS. The nearshore and offshore waters are foraging areas for pinniped species discussed in this document.

The two largest islands of the seven islands are the Southeast Farallon and Maintop (aka West End) Islands. These and several smaller rocks are collectively referred to as the South Farallon Islands and are the subject of this IHA request. The two largest islands are separated by only a 9 m (30 ft) wide surge channel. Together, these islands are approximately 49 hectares (120 acres) in size with an intertidal perimeter around both islands of 7.7 km (4.8 mi).

The areas proposed for sampling are: Blow Hole Peninsula; Mussel Flat; Dead Sea Lion Flat; Low Arch; Raven's Cliff; Drunk Uncle Islet; East Landing; North Landing; Fisherman's Bay; Weather Service Peninsula; Indian Head; and Shell Beach (see Figure 2 in GFNMS' application). Each sample site will be visited one to two times each minus tide cycle for 3–4 hours each visit.

The shorelines on these islands, including areas above the mean high tide elevation, have become more heavily used over time as haulout sites for pinnipeds to rest, give birth, and molt. The intertidal zones where GFNMS conducts intertidal monitoring are specific areas area also areas where pinnipeds can be found hauled out on the shore. Accessing portions of the intertidal habitat may cause incidental Level B (behavioral) harassment of pinnipeds through some unavoidable approaches if pinnipeds are hauled out directly in the study plots or while biologists walk from one location to another. No motorized equipment is involved in conducting these surveys. The species for which Level B harassment is requested are: California sea lions (*Zalophus californianus californianus*); harbor seals (*Phoca vitulina richardii*); northern elephant seals (*Mirounga angustirostris*); Stellar sea lions (*Eumetopias jubatus*); and northern fur seals (*Callorhinus ursinus*).

Description of Marine Mammals in the Area of the Specified Activity

Many of the shores of the two South Farallon Islands provide resting, molting, and breeding habitat for pinniped species: Northern elephant seals; harbor seals; California sea lions; northern fur seals; and Steller sea lions. California sea lion is the species anticipated to be encountered most frequently during the specified activity. The other four species are only anticipated to be encountered at some of the sites. Tables 2 and 3 in GFNMS' application outline the average and maximum expected occurrences of each

species at each sampling location, respectively. Numbers in these tables are based on weekly surveys conducted by PRBO (now Point Blue) in January 2012 and 2013. Figures contained in Appendix I of GFNMS' application depict the overlap between pinniped haulouts and abalone sampling sites. None of the species noted here are listed as threatened and endangered under the ESA. On November 4, 2013, NMFS published a final rule delisting the eastern distinct population segment (DPS) of Steller sea lions (78 FR 66139). We have determined that this DPS has recovered and no longer meets the definition of an endangered or threatened species under the ESA. The Steller sea lions on the South Farallon Islands are part of the eastern DPS.

We refer the public to Carretta *et al.* (2014) and Allen and Angliss (2014) for general information on these species which are presented below this section. The publications are available on the internet at: *http://www.nmfs.noaa.gov/pr/sars/pdf/pacific2013_final.pdf* and *http://www.nmfs.noaa.gov/pr/sars/pdf/ak2013_final.pdf*. Additional information on the status, distribution, seasonal distribution, and life history can also be found in GFNMS' application.

Northern Elephant Seal

Northern elephant seals are not listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA. The estimated population of the California breeding stock is approximately 124,000 animals with a minimum estimate of 74,913 (Carretta *et al.*, 2014).

Northern elephant seals range in the eastern and central North Pacific Ocean, from as far north as Alaska and as far south as Mexico. Northern elephant seals spend much of the year, generally about nine months, in the ocean. They are usually underwater, diving to depths of about 330–800 m (1,000–2,500 ft) for 20- to 30-minute intervals with only short breaks at the surface. They are rarely seen out at sea for this reason. While on land, they prefer sandy beaches.

Northern elephant seals breed and give birth in California (U.S.) and Baja California (Mexico), primarily on offshore islands (Stewart *et al.*, 1994), from December to March (Stewart and Huber, 1993). Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, and females feed further south, south of 45° N (Stewart and Huber, 1993; Le Boeuf *et al.*, 1993). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

The population on the Farallon Islands has declined by 3.4 percent per year since 1983, and in recent years numbers have fluctuated between 100 and 200 pups (PRBO, unpubl. data). At Southeast Farallon, the population consists of approximately 500 animals (GFNMS, 2012).

California Sea Lion

California sea lions are not listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA. The California sea lion is now a full species, separated from the Galapagos sea lion (*Z. wollebaeki*) and the extinct Japanese sea lion (*Z. japonicus*) (Brunner, 2003; Wolf *et al.*, 2007; Schramm *et al.*, 2009). The estimated population of the U.S. stock of California sea lion is approximately 296,750 animals, and the current maximum population growth rate is 12 percent (Carretta *et al.*, 2014). On the Farallon Islands, California sea lions haul out in many intertidal areas year round, fluctuating from several hundred to several thousand animals.

California sea lion breeding areas are on islands located in southern California, in western Baja California, Mexico, and the Gulf of California. During the breeding season, most California sea lions inhabit southern California and Mexico. Rookery sites in southern California are limited to the San Miguel Islands and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.*, 2014). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately 4–5 days after arrival and will nurse pups for about a week before going on their first feeding trip. Females will alternate feeding trips with nursing bouts until the pup is weaned between 4 and 10 months of age (NMML, 2010). In central California, a small number of pups are born on Ano Nuevo Island, Southeast Farallon Island, and occasionally at a few other locations; otherwise, the central California population is composed of non-breeders. Breeding animals on the Farallon Islands are concentrated in areas where researchers generally do not visit (PRBO, unpub. data).

Pacific Harbor Seal

Pacific harbor seals are not listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA. The estimated population of the California stock of Pacific harbor seals is approximately 30,196 animals (Carretta *et al.*, 2014).

The animals inhabit near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. Pacific harbor seals are divided into two subspecies: *P. v. stejnegeri* in the western North Pacific, near Japan, and *P. v. richardii* in the northeast Pacific Ocean. The latter subspecies, recognized as three separate stocks, inhabits the west coast of the continental U.S., including: The outer coastal waters of Oregon and Washington states; Washington state inland waters; and Alaska coastal and inland waters.

In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.*, 2005). On the Farallon Islands, approximately 40 to 120 Pacific harbor seals haul out in the intertidal areas (PRBO, unpub. data). Harbor seals mate at sea, and females give birth during the spring and summer, although, the pupping season varies with latitude. Pups are nursed for an average of 24 days and are ready to swim minutes after being born. Harbor seal pupping takes place at many locations, and rookery size varies from a few pups to many hundreds of pups. Pupping generally occurs between March and June, and molting occurs between May and July (NCCOS, 2007).

Steller Sea Lion

Steller sea lions consist of two distinct population segments: The western and eastern DPSs divided at 144° West longitude (Cape Suckling, Alaska). The eastern DPS of the Steller sea lion was removed from the endangered species list in November 2013, and the western distinct population segment is listed as endangered under the ESA. The eastern DPS is the one anticipated to occur in the proposed project area. The eastern segment includes sea lions living in southeast Alaska, British Columbia, California, and Oregon.

Steller sea lions range along the North Pacific Rim from northern Japan to California (Loughlin *et al.*, 1984), with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands, respectively. The species is not known to migrate, but individuals disperse widely outside of the breeding season (late May through early July), thus potentially intermixing with animals from other areas.

In 2013, the estimated population of the eastern DPS ranged from 63,160 to 78,198 animals, and the maximum population growth rate is 12 percent (Allen and Angliss, 2014).

The eastern DPS of Steller sea lions breeds on rookeries located in southeast Alaska, British Columbia, Oregon, and California. There are no rookeries located in Washington State. Steller sea lions give birth in May through July, and breeding commences a couple of weeks after birth. Pups are weaned during the winter and spring of the following year.

Despite the wide-ranging movements of juveniles and adult males in particular, exchange between rookeries by breeding adult females and males (other than between adjoining rookeries) appears low, although males have a higher tendency to disperse than females (NMFS, 1995; Trujillo *et al.*, 2004; Hoffman *et al.*, 2006). A northward shift in the overall breeding distribution has occurred, with a contraction of the range in southern California and new rookeries established in southeastern Alaska (Pitcher *et al.*, 2007).

The current population of eastern Steller sea lions in the proposed research area is estimated to number between 50 and 750 animals. Overall, counts of non-pups at trend sites in California and Oregon have been relatively stable or increasing slowly since the 1980s (Allen and Angliss, 2011). On Southeast Farallon Island, the abundance of females declined an average of 3.6 percent per year from 1974 to 1997 (Sydeman and Allen, 1999). Pup counts on the Farallon Islands have generally varied from five to 15 (Hastings and Sydeman, 2002; PRBO unpub. data).

Northern Fur Seal

Northern fur seals are not listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA. Two stocks of northern fur seals are recognized in U.S. Pacific waters: Eastern Pacific stock and San Miguel Island stock. Adult females and juveniles migrate to the central California area (and Oregon and Washington) from rookeries on San Miguel Island in the Southern California Bight (Carretta *et al.*, 2006) and from the Pribilof Islands in the Bering Sea (NCCOS, 2007).

The most recent population estimate of the San Miguel Island stock is 12,844 animals (Carretta *et al.*, 2014) and is 639,545 animals for the Eastern Pacific stock (Allen and Angliss, 2014). The northern fur seal population on the Farallon Islands has fluctuated greatly over the past two centuries. Current PRBO weekly counts on Maintop Island show a peak of 296 adult and juvenile northern fur seals and 180 pups in 2011 (PRBO, unpub. data). Although it is difficult to differentiate, animals on the Farallon Islands during the time of the proposed rocky intertidal monitoring are likely from the San Miguel Island stock.

Other Marine Mammals in the Proposed Action Area

California (southern) sea otters (*Enhydra lutris nereis*), listed as threatened under the ESA and categorized as depleted under the MMPA, usually range in coastal waters within 2 km (1.2 mi) of shore. PRBO has not encountered California sea otters on Southeast Farallon Island during the course of seabird or pinniped research activities over the past five years. This species is managed by the USFWS and is not considered further in this notice.

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that components (*e.g.*, personnel presence) of the specified activity, including mitigation may impact marine mammals. The "Estimated Take by Incidental Harassment" section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The "Negligible Impact Analysis" section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the "Estimated Take by Incidental Harassment" section, the "Proposed Mitigation" section, and the "Anticipated Effects on Marine Mammal Habitat" section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

The appearance of researchers may have the potential to cause Level B harassment of any pinnipeds hauled out on Southeast Farallon and Maintop (West End) Islands. Although marine mammals are never deliberately approached by abalone survey personnel, approach may be unavoidable if pinnipeds are hauled out in the immediate vicinity of the permanent abalone study plots. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of researchers (*e.g.*, turning the head, assuming a more upright posture) to flushing from the haul-out site into the water. NMFS does not consider the lesser reactions to constitute behavioral harassment, or Level B harassment takes, but rather assumes that pinnipeds that move greater than 1 m (3.3 ft) or change the speed or direction of their movement in response to the presence of researchers are behaviorally harassed, and thus subject to Level B taking. Animals that respond to the presence of researchers by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment.

Numerous studies have shown that human activity can flush harbor seals off haulout sites (Allen *et al.*, 1984; Calambokidis *et al.*, 1991; Suryan and Harvey, 1999). The Hawaiian monk seal (*Monachus schauinslandi*) has been shown to avoid beaches that have been disturbed often by humans (Kenyon, 1972). And in one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon, 1962).

Typically, even those reactions constituting Level B harassment would result at most in temporary, short-term disturbance. Researchers will visit approximately 12 sites over an 8 day period with each site visit typically lasting 3–4 hours. Therefore, disturbance of pinnipeds resulting from the presence of researchers lasts only for short periods of time. Because such disturbance is sporadic, rather than chronic, and of low intensity, individual marine mammals are unlikely to incur any detrimental impacts to vital rates or ability to forage and, thus, loss of fitness. Correspondingly, even local populations, much less the overall stocks of animals, are extremely unlikely to accrue any significantly detrimental impacts.

There are three ways in which disturbance, as described previously, could result in more than Level B harassment of marine mammals. All three are most likely to be consequences of stampeding, a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus, an occurrence that is not expected on Southeast Farallon and Maintop Islands. The three situations are (1) falling when entering the water at high-relief locations; (2) extended separation of mothers and pups; and (3) crushing of elephant seal pups by large males during a stampede.

Because hauled-out animals may move towards the water when disturbed, there is the risk of injury if

animals stampede towards shorelines with precipitous relief (*e.g.*, cliffs). However, while cliffs do exist on the islands, shoreline habitats near the abalone study sites are of steeply sloping rocks with unimpeded and non-obstructive access to the water. If disturbed, hauled-out animals in these situations may move toward the water without risk of encountering barriers or hazards that would otherwise prevent them from leaving the area. In these circumstances, the risk of injury, serious injury, or death to hauled-out animals is very low. Thus, abalone research activity poses no risk that disturbed animals may fall and be injured or killed as a result of disturbance at high-relief locations.

The risk of marine mammal injury, serious injury, or mortality associated with abalone research increases somewhat if disturbances occur during breeding season. These situations present increased potential for mothers and dependent pups to become separated and, if separated pairs do not quickly reunite, the risk of mortality to pups (through starvation) may increase. Separately, adult male elephant seals may trample elephant seal pups if disturbed, which could potentially result in the injury, serious injury, or mortality of the pups. The risk of either of these situations is greater in the event of a stampede.

The proposed site visits in January fall outside of the pupping and breeding seasons for California sea lions, harbor seals, northern fur seals, and Steller sea lions. The most sensitive months for northern elephant seals are generally December through March. However, though elephant seal pups are occasionally present when researchers visit abalone survey sites, risk of pup mortalities is very low because elephant seals are far less reactive to researcher presence than the other two species. Further, pups are typically found on sand beaches, while study sites are located in the rocky intertidal zone, meaning that there is typically a buffer between researchers and pups. Finally, the caution used by researchers in approaching sites generally precludes the possibility of behavior, such as stampeding, that could result in extended separation of mothers and dependent pups or trampling of elephant seal pups. No research would occur where separation of mother and her nursing pup or crushing of pups can become a concern.

In summary, NMFS does not anticipate that the proposed activities would result in the injury, serious injury, or mortality of pinnipeds because (1) the timing of research visits would preclude separation of mothers and pups for four of the pinniped species, as activities occur outside of the pupping/breeding season and (2) elephant seals are generally not susceptible to disturbance as a result of researchers' presence. In addition, researchers will exercise appropriate caution approaching sites, especially when pups are present and will redirect activities when pups are present.

Anticipated Effects on Marine Mammal Habitat

The only habitat modification associated with the proposed activity is the quadrat locations being marked with marine epoxy. The plot corners are marked with a 3x3 cm (1.2x1.2 in) patch of marine epoxy glued to the benchrock for relocating the quadrat sites. Markers have been in place since 1993, and pinniped populations have increased throughout the islands during this time. Maintenance is sometimes required, which consists of replenishing worn markers with fresh epoxy or replacing markers that have become dislodged. No gas power tools are used, so there is no potential for noise or accidental fuel spills disturbing animals and impacting habitats. Thus, the proposed activity is not expected to have any habitat-related effects, including to marine mammal prey species, that could cause significant or long-term consequences for individual marine mammals or their populations.

Proposed Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

Mitigation Measures

GFNMS proposes to implement several mitigation measures to reduce potential take by Level B (behavioral disturbance) harassment. Measures include: (1) Coordinating sampling efforts with other permitted activities (*i.e.*, Point Blue and USFWS); (2) conducting slow movements and staying close to the ground to prevent or minimize stampeding; (3) avoiding loud noises (*i.e.*, using hushed voices); (4) vacating the area as soon as sampling of the site is completed; (5) monitoring the offshore area for predators (such as killer whales and white sharks) and avoid flushing of pinnipeds when predators are observed in nearshore waters; (6) using binoculars to detect pinnipeds before close approach to avoid being seen by animals; and (7) rescheduling work at sites where pups are present, unless other means to accomplishing the work can be done without causing disturbance to mothers and dependent pups.

The methodologies and actions noted in this section will be utilized and included as mitigation measures in any issued IHA to ensure that impacts to marine mammals are mitigated to the lowest level practicable. The primary method of mitigating the risk of disturbance to pinnipeds, which will be in use at all times, is the selection of judicious routes of approach to abalone study sites, avoiding close contact with pinnipeds hauled out on shore, and the use of extreme caution upon approach. In no case will marine mammals be deliberately approached by abalone survey personnel, and in all cases every possible measure will be taken to select a pathway of approach to study sites that minimizes the number of marine mammals potentially harassed. In general, researchers will stay inshore of pinnipeds whenever possible to allow maximum escape to the ocean. Each visit to a given study site will last for approximately 3–4 hours, after which the site is vacated and can be re-occupied by any marine mammals that may have been disturbed by the presence of abalone researchers. By arriving before low tide, worker presence will tend to encourage pinnipeds to move to other areas for the day before they haul out and settle onto rocks at low tide.

The following measures are proposed for implementation to avoid disturbances to elephant seal pups. Disturbances to females with dependent pups can be mitigated to the greatest extent practicable by avoiding visits to those intertidal sites with pinnipeds that are actively nursing, with the exception of northern elephant seals. January has been selected as the time of year for conducting intertidal survey work in order to minimize the risk of harassment. This time of year avoids the disturbance to young, dependent pups, with the exception of northern elephant seals. Harassment of nursing northern elephant seal pups may occur but only to a limited extent. Disruption of nursing to northern elephant seal pups will occur only as biologists pass by the area. No flushing on nursing northern elephant seal pups will occur, and no disturbance to newborn northern elephant seals (pups less than one week

old) will occur. Moreover, elephant seals have a much higher tolerance of nearby human activity than sea lions or harbor seals. In the event of finding pinnipeds breeding and nursing, the intertidal monitoring activities will be re-directed to sites where these activities and behaviors are not occurring. This mitigation measure will reduce the possibility of takes by harassment and further reduce the remote possibility of serious injury or mortality of dependent pups.

GFNMS will suspend sampling and monitoring operations immediately if an injured marine mammal is found in the vicinity of the project area and the abalone site sampling activities could aggravate its condition.

Mitigation Conclusions

NMFS has carefully evaluated GFNMS' proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).
5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.
6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth "requirements pertaining to the monitoring and reporting of such taking". The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. GFNMS submitted a marine mammal monitoring plan as part of the IHA application. It can be found in Section 13 of the application. The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;
2. An increase in our understanding of how many marine mammals are likely to be exposed to levels of potential stressor(s) associated with the action (*e.g.* sound or visual stimuli) that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;
3. An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:
   - Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
   - Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
   - Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;
4. An increased knowledge of the affected species; and
5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Currently many aspects of pinniped research are being conducted by Point Blue scientists on the Farallon Islands, which includes elephant seal pup tagging and behavior observations with special notice to tagged animals. Additional observations are always desired, such as observations of pinniped carcasses bearing tags, as well as any rare or unusual marine mammal occurrences. GFNMS' observations and reporting will add to the observational database and on-going marine mammal assessments on the Farallon Islands.

GFNMS can add to the knowledge of pinnipeds on the South Farallon Islands by noting observations of: (1) Unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

Proposed monitoring requirements in relation to GFNMS' abalone research surveys will include observations made by the applicant. Information recorded

will include species counts (with numbers of pups/juveniles), numbers of observed disturbances, and descriptions of the disturbance behaviors during the abalone surveys. Observations of unusual behaviors, numbers, or distributions of pinnipeds on the South Farallon Islands will be reported to NMFS and Point Blue so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing pinniped carcasses as well as any rare or unusual species of marine mammals will be reported to NMFS and Point Blue.

If at any time injury, serious injury, or mortality of the species for which take is authorized should occur, or if take of any kind of any other marine mammal occurs, and such action may be a result of the proposed abalone research, GFNMS will suspend research activities and contact NMFS immediately to determine how best to proceed to ensure that another injury or death does not occur and to ensure that the applicant remains in compliance with the MMPA.

A draft final report must be submitted to NMFS Office of Protected Resources within 60 days after the conclusion of the 2015 field season or 60 days prior to the start of the next field season if a new IHA will be requested. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. A final report must be submitted to the Director of the NMFS Office of Protected Resources and to the NMFS West Coast Regional Administrator within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

All anticipated takes would be by Level B harassment, involving temporary changes in behavior. The proposed mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by injury, serious injury, or mortality is considered remote. Animals hauled out close to the actual survey sites may be disturbed by the presence of biologists and may alter their behavior or attempt to move away from the researchers. No motorized equipment is involved in conducting the proposed abalone monitoring surveys.

As discussed earlier, NMFS considers an animal to have been harassed if it moved greater than 1 m (3.3 ft) in response to the researcher's presence or if the animal was already moving and changed direction and/or speed, or if the animal flushed into the water. Animals that became alert without such movements were not considered harassed. The distribution of pinnipeds hauled out on beaches is not consistent throughout the year. The number of marine mammals disturbed will vary by month and location. PRBO (now Point Blue) obtains weekly counts of pinnipeds on the South Farallon Islands, dating back to the early 1970s. GFNMS used data collected by PRBO in Janaury 2012 and 2013 to estimate the number of pinnipeds that may potentially be taken by Level B (behavioral) harassment. Table 3 in GFNMS' IHA application and Table 1 here present the maximum numbers of California sea lions, harbor seals, northern elephant seals, northern fur seals, and Steller sea lions that may be present at the various sampling sites during the proposed activity timeframe under this proposed IHA. Based on this information, NMFS proposes to authorize the take, by Level B harassment only, of 7,126 California sea lions, 119 harbor seals, 66 northern elephant seals, 124 northern fur seals, and 112 Steller sea lions. These numbers are considered to be maximum take estimates; therefore, actual take may be slightly less if animals decide to haul out at a different location for the day or animals are out foraging at the time of the survey activities.

Analysis and Preliminary Determination

Negligible Impact

Negligible impact is "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival" (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, feeding, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

No injuries or mortalities are anticipated to occur as a result of GFNMS' rocky intertidal monitoring work and searching for black abalone, and none are proposed to be authorized. The behavioral harassments that could occur would be of limited duration, as researchers will only conduct sampling over a period of 8 days. Additionally, each site is sampled for approximately 3–4 hours before moving to the next sampling site. Therefore, disturbance will be limited to a short duration, allowing pinnipeds to reoccupy the sites within a short amount of time.

Some of the pinniped species use the islands to conduct pupping and/or breeding. However, with the exception of northern elephant seals, GFNMS will conduct its abalone site sampling outside of the pupping/breeding seasons. GFNMS has proposed measures to minimize impacts to northern elephant seals nursing or tending to dependent pups. Such measures will avoid mother/pup separation or trampling of pups.

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Table 1. Estimated number of animals to be disturbed at each sampling site during from January 16-23 January 2015, 2012 and 2013 maximum daily counts for January based on maximum daily counts of pinnipeds estimated from PRBO monitoring data and the total proposed number of Level B harassment takes to be authorized for each species.

	East Landing & Blowhole Peninsula	North Landing & Fisherman's Bay	Dead Sea Lion Flat	Mussel Flat	Low Arch	Weather Service Peninsula	Raven's Cliff	Indian Head	Shell Beach	Drunk Uncle Islet & Pelican Bowl	
CA Sea Lion January 2012	0	497	539	941	620	250	871	1153	1655	600	
CA Sea Lion January 2013	0	251	464	192	569	153	220	675	732	169	
Maximum	0	497	539	941	620	250	871	1153	1655	600	7126
Harbor Seal January 2012	8	6	0	38	0	0	0	0	0	0	
Harbor Seal January 2013	14	20	10	73	0	2	0	0	0	0	
Maximum	14	20	10	73	0	2	0	0	0	0	119
N. Elephant Seal January 2012	0	4	0	2	29	0	0	15	7	0	
N. Elephant Seal January 2013	0	4	4	7	25	0	0	8	0	0	
Maximum	0	4	4	7	29	0	0	15	7	0	66
N. Fur Seal January 2012	0	0	0	0	0	0	0	62	0	0	
N. Fur Seal January 2013	0	0	0	0	0	0	0	20	0	0	
Maximum	0	0	0	0	0	0	0	62	0	0	124*
Steller Sea Lion January 2012	0	0	8	2	0	0	8	17	23	0	
Steller Sea Lion January 2013	0	2	30	13	1	0	2	35	17	0	
Maximum	0	2	30	13	1	0	8	35	23	0	112
										MAXIMUM TOTAL	7547

***A high but undetermined population growth rate for northern fur seals on the South Farallon Isalnds is anticipated. Therefore, the maximum total for fur seals has been doubled.**

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None of the five marine mammal species anticipated to occur in the proposed activity area are listed as threatened or endangered under the ESA. Taking into account the mitigation measures that are planned, effects to marine mammals are generally expected to be restricted to short-term changes in behavior or temporary abandonment of haulout sites, falling within the MMPA definition of "Level B harassment." Pinnipeds are not expected to permanently abandon any area that is surveyed by researchers, as is evidenced by continued presence of pinnipeds at the sites during annual monitoring counts. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed mitigation and monitoring measures, NMFS preliminarily finds that the total marine mammal take from GFNMS' rocky intertidal monitoring program will not adversely affect annual rates of recruitment or survival and therefore will have a negligible impact on the affected species or stocks.

Small Numbers

Table 2 in this document presents the abundance of each species or stock, the proposed take estimates, and the percentage of the affected populations or stocks that may be taken by harassment. Based on these estimates, GFNMS would take less than 1% of each species or stock, with the exception of the California sea lion, which would result in an estimated take of 2.4% of the stock. Because these are maximum estimates, actual take numbers are likely to be lower, as some animals may select other haulout sites the day the researchers are present.

TABLE 2—POPULATION ABUNDANCE ESTIMATES, TOTAL PROPOSED LEVEL B TAKE, AND PERCENTAGE OF POPULATION THAT MAY BE TAKEN FOR THE POTENTIALLY AFFECTED SPECIES DURING THE PROPOSED ROCKY INTERTIDAL MONITORING PROGRAM

Species	Abundance *	Total proposed Level B take	Percentage of stock or population
Harbor Seal	30,196	119	0.4
California Sea Lion	296,750	7,126	2.4
Northern Elephant Seal	124,000	66	0.05
Steller Sea Lion	63,160 to 78,198	112	0.1–0.2
Northern Fur Seal	12,844	*124	0.01

* Abundance estimates are taken from the 2013 U.S. Pacific Marine Mammal Stock Assessments (Carretta *et al.*, 2014) and 2013 Alaska Marin Mammal Stock Assessments (Allen and Anglis, 2014).

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

None of the marine mammals for which incidental take is proposed are listed as threatened or endangered under the ESA. Therefore, NMFS has determined that issuance of the proposed IHA to GFNMS under section 101(a)(5)(D) of the MMPA will have no effect on species listed as threatened or endangered under the ESA.

National Environmental Policy Act (NEPA)

In 2012, we prepared an Environmental Assessment (EA) analyzing the potential effects to the human environment from conducting rocky intertidal surveys along the California and Oregon coasts and issued a Finding of No Significant Impact (FONSI) on the issuance of an IHA for GFNMS' rocky intertidal surveys in accordance with section 6.01 of the NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). GFNMS' proposed activities and impacts for 2015 are within the scope of our 2012 EA and FONSI. We have reviewed the 2012 EA and determined that there are no new direct, indirect, or cumulative impacts to the human and natural environment associated with the IHA requiring evaluation in a supplemental EA and we, therefore, intend to reaffirm the 2012 FONSI.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to authorize the take of marine mammals incidental to GFNMS' rocky intertidal and black abalone monitoring research activities, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This IHA is valid from January 10, 2015, through January 30, 2015.

2. This IHA is valid only for specified activities associated with rocky intertidal monitoring surveys at specific sites Southeast Farallon and West End Islands, CA.

3. General Conditions

a. A copy of this IHA must be in the possession of personnel operating under the authority of this authorization.

b. The incidental taking of marine mammals, by Level B harassment only, is limited to the following species:

i. 119 harbor seal (*Phoca vitulina richardii*);

ii. 7,126 California sea lion (*Zalophus californianus*);

iii. 66 northern elephant seal (*Mirounga angustirostris*);

iv. 24 northern fur seal (*Callorhinus ursinus*); and

v. 112 Steller sea lion (*Eumetopias jubatus*).

c. The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the IHA or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

4. Mitigation Measures: In order to ensure the least practicable impact on the species listed in condition 3(b), the holder of this IHA is required to implement the following mitigation measures:

a. Field biologists must approach study sites cautiously and quietly, such that any disturbance of pinnipeds is minimized. The pathway and rate of approach must be chosen judiciously, avoiding to the extent possible any deliberate approach of hauled-out pinnipeds. If deliberate approach is unavoidable, field biologists must approach gradually such that stampeding of pinnipeds is avoided. Specific care must be taken to avoid any disturbance that may place pinniped pups at risk. Site visits should be limited to no more than 6 hours in the absence of extenuating circumstances, and personnel shall vacate the area as soon as sampling of the site is completed.

b. GFNMS staff shall coordinate sampling efforts with other permitted activities (*i.e.*, Point Blue and the U.S. Fish and Wildlife Service).

c. Staff shall use binoculars to detect pinnipeds before close approach to avoid being seen by the animals.

d. Staff shall monitor the offshore area for predators (such as killer whales and white sharks) and avoid flushing of pinnipeds when predators are observed in nearshore waters.

e. Staff shall reschedule work at sites where pups are present, unless other means to accomplishing the work can be done without causing disturbance to mothers and dependent pups.

f. In the event of finding pinnipeds breeding or nursing, GFNMS staff shall redirect activities to sites where these life function behaviors are not occurring.

5. Monitoring: The holder of this IHA is required to conduct monitoring of marine mammals present at study sites prior to approaching the sites.

a. Information to be recorded shall include the following:

i. Species counts (with numbers of pups/juveniles); and

ii. Numbers of disturbances, by species and age, according to a three-point scale of intensity including (1) Head orientation in response to

disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, or changing from a lying to a sitting position and/or slight movement of less than 1 m; "alert"; (2) Movements in response to or away from disturbance, typically over short distances (1–3 m) and including dramatic changes in direction or speed of locomotion for animals already in motion; "movement"; and (3) All flushes to the water as well as lengthier retreats (>.3 m); "flight".

6. Reporting: The holder of this IHA is required to:

a. Report observations of unusual behaviors, numbers, or distributions of pinnipeds, or of tag-bearing carcasses, to Point Blue and NMFS Southwest Fisheries Science Center (SWFSC).

b. Submit a draft monitoring report to NMFS Office of Protected Resources within 60 days after the conclusion of the 2015 field season or 60 days prior to the start of the next field season if a new IHA will be requested. A final report shall be prepared and submitted within 30 days following resolution of any comments on the draft report from NMFS. This report must contain the informational elements described above, at minimum.

c. Reporting injured or dead marine mammals:

i. In the event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, GFNMS shall immediately cease the specified activities and report the incident to the Office of Protected Resources (301–427–8401), NMFS, and the Southwest Regional Stranding Coordinator (562–980–3230), NMFS. The report must include the following information:

1. Time and date of the incident;

2. Description of the incident;

3. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);

4. Description of all marine mammal observations in the 24 hours preceding the incident;

5. Species identification or description of the animal(s) involved;

6. Fate of the animal(s); and

7. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with GFNMS to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. PISCO may not resume the activities until notified by NMFS.

ii. In the event that an injured or dead marine mammal is discovered and it is determined that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), GFNMS shall immediately report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Stranding Coordinator, NMFS. The report must include the same information identified in 6(c)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with GFNMS to determine whether additional mitigation measures or modifications to the activities are appropriate.

iii. In the event that an injured or dead marine mammal is discovered and it is determined that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), GFNMS shall report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. GFNMS shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS. Activities may continue while NMFS reviews the circumstances of the incident.

7. This IHA may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

NMFS requests comment on our analysis, the draft authorization, and any other aspect of the Notice of Proposed IHA for GFNMS' proposed rocky intertidal monitoring program. Please include with your comments any supporting data or literature citations to help inform our final decision on GFNMS' request for an MMPA authorization.

Dated: November 26, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–28391 Filed 12–1–14; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

Recording Assignments

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 2, 2015.

ADDRESSES: You may submit comments by any of the following methods:

- Email: *InformationCollection@uspto.gov.* Include "0651–0027 comment" in the subject line of the message.
- Mail: Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box
- Federal Rulemaking Portal: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Joyce R. Johnson, Manager, Assignment Division, Mail Stop 1450, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 703–756–1265; or by email to *Joyce.Johnson@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under "Information Collection Review."

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by 35 U.S.C. 261 and 262 for patents and 15 U.S.C. 1057 and 1060 for trademarks. These statutes authorize the United States Patent and Trademark Office (USPTO) to record patent and trademark assignment documents, including transfers of properties (*i.e.* patents and trademarks), liens, licenses, assignments of interest, security interests, mergers, and explanations of transactions or other documents that record the transfer of ownership of a particular patent or trademark property from one party to another. Assignments are recorded for applications, patents, and trademark registrations.

The USPTO administers these statutes through 37 CFR 2.146, 2.171, and 37 CFR part 3. These rules permit the

public, corporations, other federal agencies, and Government-owned or Government-controlled corporations to submit patent and trademark assignment documents and other documents related to title transfers to the USPTO to be recorded. In accordance with 37 CFR 3.54, the recording of an assignment document by the USPTO is an administrative action and not a determination of the validity of the document or of the effect that the document has on the title to an application, patent, or trademark.

Once the assignment documents are recorded, they are available for public inspection. The only exceptions are those documents that are sealed under secrecy orders according to 37 CFR 3.58 or related to unpublished patent applications maintained in confidence under 35 U.S.C. 122 and 37 CFR 1.14. The public uses these records to conduct ownership and chain-of-title searches. The public may view these records either at the USPTO Public Search Facilities or at the National Archives and Records Administration, depending on the date they were recorded. The public may also search patent and trademark assignment information online through the USPTO Web site.

In order to file a request to record an assignment, the respondent must submit an appropriate cover sheet along with copies of the assignment documents to be recorded. The USPTO provides two paper forms for this purpose, the Patent Recordation Form Cover Sheet (PTO–1595) and the Trademark Recordation Form Cover Sheet (PTO–1594), which capture all of the necessary data for accurately recording various assignment documents. These forms may be downloaded in PDF format from the USPTO Web site.

Customers may also submit assignments online by using the Electronic Patent Assignment System (EPAS) and the Electronic Trademark Assignment System (ETAS), which are available through the USPTO Web site. These systems allow customers to fill out the required cover sheet information online using web-based forms and then attach the electronic assignment documents to be submitted for recordation.

II. Method of Collection

By mail, facsimile, hand delivery, or electronically to the USPTO.

III. Data

OMB Number: 0651–0027.

Form Number(s): PTO–1594 and PTO–1595.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; not-for-profit institutions; the Federal Government; and state, local or tribal governments.

Estimated Number of Respondents: 524,298 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 30 minutes (0.5 hours) to prepare and submit a patent or trademark assignment recordation request.

Estimated Total Annual Respondent Burden Hours: 262,150 hours.

Estimated Total Annual Respondent Cost Burden: 67,372,550 per year.

The USPTO expects that the information in this collection will be prepared by both attorneys and paralegals. Using the estimated rates of $389 per hour for attorneys in private firms and $125 per hour for paraprofessionals, the USPTO estimates that the average rate for respondents will be approximately $257 per hour. Therefore, the estimated total respondent cost burden for this collection will be approximately $67,372,550 per year.

Item	Estimated time for response (minutes)	Estimated annual responses	Estimated annual burden hours
Patent Recordation Form Cover Sheet (PTO–1595)	30	8,219	4,110
Trademark Recordation Form Cover Sheet (PTO–1594)	30	1,430	715
Electronic Patent Assignment System (EPAS) (PTO–1595)	30	480,804	240,402
Electronic Trademark Assignment System (ETAS) (PTO–1594)	30	33,845	16,923
Totals		524,298	262,150

Estimated Total Annual Non-hour Respondent Cost Burden: $2,954,726. This information collection has annual (non-hour) costs in the form of filing fees and postage costs.

This collection has filing fees associated with submitting patent and trademark assignment documents to be recorded. The filing fees for recording patent and trademark assignments are the same for both paper and electronic submissions. However, the filing cost for recording patent or trademark assignments varies according to the number of properties involved in each submission.

The filing fee for submitting a patent assignment as indicated by 37 CFR 1.21(h) is $40 per property for recording each document, while the filing fee for submitting a trademark assignment as indicated by 37 CFR 2.6(b)(6) is $40 for recording the first property in a document and $25 for each additional property in the same document. The USPTO estimates that the average fee for a patent assignment recordation request is approximately $80 and that the average fee for a trademark assignment recordation request is approximately $65. As of January 1, 2014, the filing fee for electronically filled patent assignments was changed to no cost. Therefore, this collection has an estimated total of $2,950,395 in filing fees per year.

Item	Estimated annual responses	Average fee amount	Estimated annual filing costs
Patent Recordation Form Cover Sheet (PTO–1595)	8,219	$80.00	$657,520.00
Trademark Recordation Form Cover Sheet (PTO–1594)	1,430	65.00	92,950.00
Electronic Patent Assignment System (EPAS) (PTO–1595)	480,804	0.00	0.00
Electronic Trademark Assignment System (ETAS) (PTO–1594)	33,845	65.00	2,199,925.00
Totals	524,298		2,950,395.00

Customers may incur postage costs when submitting a patent or trademark assignment request to the USPTO by mail. The USPTO expects that some assignment requests will be submitted by fax but that approximately 4,921 (51%) of the 9,649 paper assignment requests per year will be submitted by mail. The USPTO estimates that the average first-class postage cost for a mailed Patent or Trademark Recordation Form Cover Sheet submission is 88 cents, resulting in a total postage cost of $4,331 per year for this collection.

The total (non-hour) respondent cost burden for this collection in the form of filing fees and postage costs is estimated to be $2,954,726 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 20, 2014.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2014–28428 Filed 12–1–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

National Medal of Technology and Innovation Nomination Application

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the extension of a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 2, 2015.

ADDRESSES: You may submit comments by any of the following methods:

- Email: *InformationCollection@uspto.gov.* Include "0651–0060 comment" in the subject line of the message.
- Mail: Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- Federal Rulemaking Portal: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of John Palafoutas, Program Manager, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, by telephone at 571–272–8400, or by email to *nmti@uspto.gov* with "Paperwork" in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under "Information Collection Review."

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Medal of Technology and Innovation is the highest honor for technological achievement bestowed by the President of the United States on America's leading innovators. Established by an Act of Congress in 1980, the Medal of Technology was first awarded in 1985. The Medal is awarded annually to individuals, teams (up to four individuals), companies or divisions of companies for their outstanding contributions to the Nation's economic, environmental and social well-being through the development and commercialization of technology products, processes and concepts, technological innovation, and development of the Nation's technological manpower.

The purpose of the National Medal of Technology and Innovation is to recognize those who have made lasting contributions to America's competitiveness, standard of living, and quality of life through technological innovation, and to recognize those who have made substantial contributions to strengthening the Nation's technological workforce. By highlighting the national importance of technological innovation, the Medal also seeks to inspire future generations of Americans to prepare for and pursue technical careers to keep America at the forefront of global technology and economic leadership.

The National Medal of Technology and Innovation Nomination Evaluation Committee, a distinguished independent committee appointed by the Secretary of Commerce, reviews and evaluates the merit of all candidates nominated through an open, competitive solicitation process. The committee makes its recommendations for Medal candidates to the Secretary of Commerce who, in turn, makes recommendations to the President for final selection. The National Medal of Technology and Innovation Laureates are announced by the White House once the Medalists are notified of their selection.

The public uses the National Medal of Technology and Innovation Nomination Application to recognize through nomination an individual's, team's or company's extraordinary leadership and innovation in technological achievement and outstanding contributions to strengthening the nation's technological workforce. The application must be accompanied by six letters of recommendation or support from individuals who have first-hand knowledge of the cited achievement(s).

II. Method of collection

The nomination application and instructions can be downloaded from the USPTO Web site. Nomination files should be submitted by electronic mail to *NMTI@USPTO.gov.* Alternatively, letters of recommendation may be sent by electronic mail, fax, or overnight delivery.

III. Data

OMB Number: 0651–0060.

Form Number(s): None.

Type of Review: Extension of a currently approved collection.

Affected Public: Primarily business or other for-profit organizations; not-for-profit institutions; individuals or households.

Estimated Number of Respondents: 50 responses per year.

Estimated Time per Response: The USPTO estimates that it will take approximately 40 hours to gather the necessary information, prepare the nomination form, write the recommendations, and submit the request for the nomination to the USPTO.

Estimated Total Annual Respondent Burden Hours: 2,000 hours.

Estimated Total Annual Respondent Cost Burden: $75,000. The USPTO expects that private sector individuals of various occupations and professions will complete this information. The

hourly rate for these individuals is estimated to be $37.50.

Item	Estimated time for response (hours)	Estimated annual responses	Estimated annual burden hours
National Medal of Technology and Innovation Nomination Form	40	50	2,000
Totals		50	2,000

Estimated Total Annual (Non-Hour) Respondent Cost Burden: $1.47.

Although it is possible for the public to submit the nominations through regular or express mail, recently very few submissions have been received in this manner. The majority of recent submissions have been through electronic mail. Therefore, we estimate one mailing per year within the next 3 years at a rate of 49 cents for a total postage cost of $1.47.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: November 20, 2014.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2014–28355 Filed 12–1–14; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before January 2, 2015.

ADDRESSES: Comments may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB, within 30 days of the notice's publication, by email at *OIRAsubmissions@omb.eop.gov*. Please identify the comments by OMB Control No. 3038–0062. Please provide the Commission with a copy of all submitted comments at the address listed below. Please refer to OMB Reference No. 3038–0062, found on *http://reginfo.gov*. Comments may also be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503, and Mark Bretscher, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, IL.

Comments may also be submitted, regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, identified by "Regulation Pertaining to Financial Integrity of the Forex Market Place, OMB Control No. 3038–0062" by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov/*. Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above. Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov*. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures set forth in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of this matter will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Mark Bretscher, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, IL 60661; (312) 596–0529; email: *mbretscher@cftc.gov*, and refer to OMB Control No. 3038–0062. This contact can also provide a copy of the ICR. A copy of the supporting statements for the collection of information discussed above may be obtained by visiting *RegInfo.gov*.

SUPPLEMENTARY INFORMATION:

Title: "Regulation Pertaining to Financial Integrity of the Forex Market Place," (OMB Control No. 3038–0062). This is a request for extension of a currently approved information collection.

Abstract: Pursuant to amendments to the Commodity Exchange Act found in the Food, Conservation, and Energy Act of 2008, Pub. L. 110–246, 122 Stat. 1651,

[1] Commission regulations referred to herein are found at 17 CFR Ch. 1 (2014).

2189–2204 (2008), the Commodity Futures Trading Commission promulgated a comprehensive set of rules applicable to intermediaries and counterparties engaged in the offer and sale of off-exchange forex contracts to retail customers. New requirements under Part 5 included reporting by retail foreign exchange dealers who fail to maintain required capital, reporting to customers, risk assessment filings and recordkeeping requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on September 30, 2014 (79 FR 58751).

Burden Statement: The respondent burden for this collection is estimated to average 0.87 hours per response. The total annual cost burden per respondent is estimated to be $2,075. The Commission based its calculation on an hourly wage rate of $44.01 for a Compliance Officer.[2]

Respondents/Affected Entities: Retail Foreign Exchange Dealers, Futures Commission Merchants, Introducing Brokers, and other counterparties to forex transactions.

Estimated Number of Respondents: 60.

Estimated Total Annual Burden on Respondents: 2,830 hours.

Frequency of Collection: Annual and on occasion.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: November 26, 2014.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2014–28382 Filed 12–1–14; 8:45 am]

BILLING CODE 6351–01–P

[2] In arriving at a wage rate for the hourly costs imposed, Commission staff used the National Industry-Specific Occupational Employment and Wage Estimates, published in May (2013 Report). The hourly rate for a Compliance Officer in the Securities and Commodity Exchanges as published in the 2010 Report was $44.01 per hour.

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 14–57]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 14–57 with attached transmittal, and policy justification.

Dated: November 26, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

NOV 17 2014

Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 14-57, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Greece for defense articles and services estimated to cost $188 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with the principles set forth in subsection 620C(b) of that Act as codified in section 2373 of title 22, United States Code.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Section 620C(d)

United States Department of State

Under Secretary of State
for Arms Control and International
Security

Washington, D.C. 20520

CERTIFICATION PURSUANT TO § 620C(d)
OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

Pursuant to Section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 and State Department Delegation of Authority No. 293-2, I hereby certify that the furnishing to Greece of F-16 aircraft sustainment support is consistent with the principles contained in Section 620C(b) of the Act.

This certification will be made part of the notification to Congress under Section 36(b) of the Arms Export Control Act, as amended, regarding the proposed sale of the above-named articles and services and is based on the justification accompanying such notification, of which such justification constitutes a full explanation.

Rose Gottemoeller
Under Secretary of State
for Arms Control and International
Security

BILLING CODE 5001–06–C

Transmittal No. 14–57

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Greece
(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$ 0 million
Other	$188 million
TOTAL	$188 million

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Provides for the continuation of sustainment support for the Hellenic Air Force's F–16 aircraft, which includes the Electronic Combat International Security Assistance Program; International Engine Management Program; F–16 Technical Coordination Program; and Aircraft Structural Integrity Program; aircraft hardware and software support; repair and return; spare and repair parts; publications and technical documentation; support equipment; minor modifications; U.S. government and contractor technical and

engineering support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (QCH)

(v) *Prior Related Cases, if any:*

FMS Case QBY–$93M–14May04

FMS Case QCE–$130M–13Feb09

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* 17 Nov 14

POLICY JUSTIFICATION

Greece—F–16 Sustainment

The Government of Greece has requested the continuation of sustainment support for the Hellenic Air Force's F–16 aircraft, which includes the Electronic Combat International Security Assistance Program; International Engine Management Program; F–16 Technical Coordination Program; and Aircraft Structural Integrity Program; aircraft hardware and software support; repair and return; spare and repair parts; publications and technical documentation; support equipment; minor modifications; U.S. government and contractor technical and engineering support services; and other related elements of logistics and program support. The estimated cost is $188 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a North Atlantic Treaty Organization (NATO) ally.

The Government of Greece needs this aircraft support to ensure its F–16 fleet is properly sustained and modernized to maintain interoperability with the United States and other NATO countries. The continued support and maintenance of Greece's F–16 fleet will ensure the effectiveness of its capabilities and ability to support future contributions to NATO operations.

The proposed sale of this support will not alter the basic military balance in the region.

The principal contractors will be Lockheed Martin in Ft Worth, Texas; and Northrup Grumman in Baltimore, Maryland. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2014–28341 Filed 12–1–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2014–0042]

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: United States Army Medical Research and Materiel Command (MRMC), DoD.

ACTION: Notice and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, we are seeking comment on the development of the following proposed Generic Information Collection Request (Generic ICR): "Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery" for approval under the Paperwork Reduction Act (PRA). This notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection.

A copy of the draft supporting statement is available at *http://www.regulations.gov* (see Docket ID: USA–2014–0042).

DATES: Consideration will be given to all comments received by February 2, 2015.

ADDRESSES: Submit comments by one of the following methods:

- *Web site: http://www.regulations.gov.* Direct comments to Docket ID: USA–2014–0042.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Comments submitted in response to this notice may be made available to the public through *http://www.regulations.gov.* For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Attn: Deputy Chief of Integration, Integrated Product Support Services, Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury (DCoE), 1335 East-West Highway, Suite 9–309, Silver Spring, MD 20910, Silver Spring Office: 301–295–8422. BB: 571–314–5786. *Lynn.B.Hallard.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title: Fast Track Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery—Defense Centers of Excellence Products.

Abstract: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of

total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;

- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Current Actions: New collection of information.

Type of Review: New Collection.

Affected Public: Individuals and Household.

Estimated Number of Respondents: 10,000.

Below we provide projected average estimates for the next three years:

Average Expected Annual Number of activities: 40.

Average number of Respondents per Activity: 250.

Annual responses: 10,000.

Frequency of Response: On Occasion/Transaction based.

Average minutes per response: 10.

Burden hours: 1,667.7.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection at *http://www.regulations.gov.*

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: November 26, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–28348 Filed 12–1–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0154]

Agency Information Collection Activities; Comment Request; International Resource Information System (IRIS)

AGENCY: Department of Education (ED), Office of Postsecondary Education (OPE).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before February 2, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0154 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Sara Starke, 202–502–7688.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department

assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: International Resource Information System (IRIS).

OMB Control Number: 1840–0759.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector, Individuals or Households and Federal Government.

Total Estimated Number of Annual Responses: 6,596.

Total Estimated Number of Annual Burden Hours: 12,647.

Abstract: The International Resource Information System (IRIS) is an online performance reporting system for International and Foreign Language Education (IFLE) grantees. IFLE grantees are institutions of higher education, organizations and individuals funded under Title VI of the Higher Education Act of 1965, as amended (HEA) and/or the Mutual Educational and Cultural Exchange Act (Fulbright-Hays Act). Grantees under these programs enter budget and performance measure data for interim, annual and final performance reports via IRIS, as well as submit International Travel Approval Requests and Grant Activation Request. IRIS also includes a public Web site that helps disseminate information about IFLE programs.

Dated: November 26, 2014.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–28369 Filed 12–1–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0155]

Agency Information Collection Activities; Comment Request; Student Assistance General Provision—Subpart I—Immigration Status Confirmation

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before February 2, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0155 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018 .

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provision—Subpart I—Immigration Status Confirmation.

OMB Control Number: 1845–0052.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households, Private Sector, State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 175,897.

Total Estimated Number of Annual Burden Hours: 21,987.

Abstract: This request is for an extension of the reporting requirements currently in Student Assistance General Provisions, 34 CFR 668, Subpart I which governs the Immigration-Status Confirmation authorized by section 484(g) of the Higher Education Act of 1965, as amended. This collection updates the usage by individuals and schools. This is necessary to determine eligibility to receive program benefits and to prevent fraud and abuse of program funds.

Dated: November 26, 2014.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–28397 Filed 12–1–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 14–177–LNG]

Sempra LNG Marketing, LLC; Application for Blanket Authorization To Export Previously Imported Liquefied Natural Gas on a Short-Term Basis

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on October 24, 2014, by Sempra LNG Marketing, LLC (Sempra LNG Marketing), requesting blanket authorization to export liquefied natural gas (LNG) previously imported into the United States from foreign sources in an amount up to the equivalent of 250 billion cubic feet (Bcf) of natural gas on a short-term or spot market basis for a two-year period commencing on February 1, 2015.[1] Sempra LNG Marketing seeks authorization to export the LNG from the Cameron LNG Terminal, in Cameron Parish, Louisiana, to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. Sempra LNG Marketing states that it does not seek authorization to export any domestically produced natural gas or LNG, and notes that it currently holds a blanket authorization to import LNG from various international sources by vessel in an amount up to the equivalent of 800 Bcf of natural gas.[2] The Application was filed under section 3 of the Natural Gas Act (NGA). Additional details can be found in Sempra LNG Marketing's Application, posted on the DOE/FE Web site at: *http://energy.gov/fe/downloads/sempra-lng-marketing-llc-fe-dkt-no-14-177-lng.*

Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, January 2, 2015.

ADDRESSES:

Electronic Filing by email

fergas@hq.doe.gov.

Regular Mail

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Larine Moore or Beverly Howard, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–9387.

Cassandra Bernstein, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–9793.

SUPPLEMENTARY INFORMATION:

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00–002.00N (July 11, 2013) and DOE Redelegation Order No. 00–002.04F (July 11, 2013). In reviewing this LNG export application, DOE will consider domestic need for the gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these issues.

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 14–177–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 14–177–LNG. **Please Note:** If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

[1] Sempra LNG Marketing's current blanket authorization to export previously imported LNG, granted in DOE/FE Order No. 3231 on February 13, 2013, extends through January 31, 2015.

[2] *Sempra LNG Marketing, LLC,* DOE/FE Order No. 3456, FE Docket No. 14–74–LNG, Order Granting Blanket Authorization to Import Liquefied Natural Gas from Various International Sources by Vessel (July 3, 2014).

Issued in Washington, DC, on November 25, 2014.

John A. Anderson,

Director, Division of Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2014–28372 Filed 12–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

State Energy Advisory Board (STEAB)

AGENCY: Department of Energy, Office of Energy Efficiency and Renewable Energy.

ACTION: Notice of Open Teleconference.

SUMMARY: This notice announces a teleconference call of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Public Law 92–463; 86 Stat.770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, December 18, 2014 from 3:30 p.m. to 4:00 p.m. (EDT). To receive the call-in number and passcode, please contact the Board's Designated Federal Officer at the address or phone number listed below.

FOR FURTHER INFORMATION CONTACT: Monica Neukomm, Policy Advisor, Office of Energy Efficiency and Renewable Energy, US Department of Energy, 1000 Independence Ave SW., Washington, DC 20585. Phone number 202–287–5189, and email *moinca.neukomm@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Receive STEAB Task Force updates on action items and next steps, discuss potential engagement with EERE staff during upcoming 2015 meetings of STEAB, and receive updates on member activities within their states.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Monica Neukomm at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site at: *www.steab.org.*

Issued at Washington, DC, on November 25, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–28364 Filed 12–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Petroleum Council; Meeting

AGENCY: Department of Energy, Office of Fossil Energy

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the National Petroleum Council. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, December 18, 2014, 9:00 a.m. to 11:30 a.m.

ADDRESSES: St. Regis Hotel, 923 16th and K Streets NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Johnson, U.S. Department of Energy, Office of Oil and Natural Gas (FE–30), Washington, DC 20585; telephone (202) 586–5600 or facsimile (202) 586–6221.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas, or the oil and natural gas industries.

Tentative Agenda:

- Call to Order and Introductory Remarks.
- Consideration of the Proposed Final Report of the NPC Committee on Emergency Preparedness.
- Progress Report of the NPC Committee on Arctic Research.
- Remarks by the Honorable Ernest Moniz, Secretary of Energy
- Administrative Matters.
- Discussion of Any Other Business Properly Brought Before the National Petroleum Council.
- Adjournment.

Public Participation: The meeting is open to the public. The Chair of the Council will conduct the meeting to facilitate the orderly conduct of business. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Nancy Johnson at the address or telephone number listed above. Request for oral statements must be received at least three days prior to the meeting. Those not able to attend the meeting or having insufficient time to address the Council are invited to send a written statement to *info@npc.org.* Any member of the public who wishes to file a written statement to the Council will be permitted to do so, either before or after the meeting.

Additionally, the meeting will also be available via live video webcast. The link will be available at *http://www.npc.org.*

Transcripts: Transcripts of the meeting will be available by contacting Ms. Johnson at the address above, or *info@npc.org.*

Issued at Washington, DC, on November 25, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–28368 Filed 12–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Data Privacy and the Smart Grid: A Voluntary Code of Conduct

AGENCY: Office of Electricity Delivery and Energy Reliability, Department of Energy.

ACTION: Notice of Webinar.

SUMMARY: The Department of Energy (DOE), Office of Electricity Delivery and Energy Reliability will conduct a webinar on December 11, 2014, to conclude the development phase of a Voluntary Code of Conduct (VCC) for utilities and third parties regarding the privacy of customer energy usage data. The webinar will summarize changes made to the VCC concepts and principles as a result of public comments. In addition, a proposed implementation plan and adoption process will be presented as well as preliminary results from focus groups conducted to gauge consumer sentiment.

DATES: The webinar will occur on Thursday, December 11, 2014, from 1:00 p.m. to 4:00 p.m., Eastern Standard Time.

ADDRESSES: To register to participate in the webinar, please go to *https://www1.gotomeeting.com/register/263025305.* Participants will receive

more detailed instructions regarding the webinar upon registering. There will be an opportunity for stakeholders viewing the webinar to ask questions or to provide comments during the webinar.

FOR FURTHER INFORMATION CONTACT: Eric Lightner, Department of Energy, Office of Electricity Delivery and Energy Reliability, 1000 Independence Ave. SW., Washington, DC 20585; telephone (202) 586–8130; email *eric.lightner@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: On January 31, 2012, the Department of Energy, Office of Electricity Delivery and Energy Reliability (DOE OE) hosted the Smart Grid Privacy Workshop to facilitate a dialog among key industry stakeholders. In addition, on February 23, 2012, the White House released the report, *Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy* (Privacy Blueprint). The Privacy Blueprint outlines a multi-stakeholder process for developing legally-enforceable voluntary codes of conduct (VCC) to help instill consumer confidence. In response to workshop findings and in support of the Privacy Blueprint, DOE OE and the Federal Smart Grid Task Force have facilitated a multi-stakeholder process to develop a VCC for utilities and third parties providing consumer energy use services that will address privacy related to data enabled by smart grid technologies.

The DOE, through a notice published in the **Federal Register** on February 11, 2013, requested electricity industry stakeholders to participate in the VCC multi-stakeholder process by attending open meetings and participating in work group activities to draft the VCC principles. The primary goal of the VCC process is to provide principles of conduct for voluntary adoption by utilities and third parties. After the December meeting, the finalized code of conduct will be posted at *www.smartgrid.gov/privacy* so that utilities and third parties can begin exploring adoption of the VCC.

Audience: Stakeholders who may be interested in participating include—but are not limited to—utilities, consumer advocates, regulators, third party providers, building energy managers, academics, and home energy auditors.

Issued in Washington, DC on November 26, 2014.

Patricia Hoffman,

Assistant Secretary, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–28376 Filed 12–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, December 10, 2014 1:00 p.m.–4:00 p.m.

ADDRESSES: The Lodge at Santa Fe, 750 North St. Francis Drive, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *Menice.Santistevan@nnsa.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1:00 p.m. Call to Order by Deputy Designated Federal Officer (DDFO), Lee Bishop, Welcome and Introductions, Doug Sayre, Chair; Approval of Agenda
1:15 p.m. Los Alamos National Laboratory Legacy Cleanup Update
2:15 p.m. Public Comment Period
2:30 p.m. Break
2:45 p.m. Los Alamos National Laboratory Legacy Cleanup Update (continued)
3:45 p.m. Public Comment Period
4:00 p.m. Adjourn, Lee Bishop

Public Participation: The EM SSAB, Northern New Mexico, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/*

Issued at Washington, DC on November 25, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–28375 Filed 12–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1273–018]

Parowan City Corporation; Notice of Application To Amend License and Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment to License.

b. *Project No:* 1273–018.

c. *Date Filed:* October 9, 2014.

d. *Applicant:* Parowan City Corporation.

e. *Name of Project:* Center Creek Hydroelectric Project.

f. *Location:* On Center Creek in Iron County, Utah. The project occupies federal lands administered by the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Derek Anderson, P.E., Environmental Division Manager, Sunrise Engineering, Inc. 12227 South Business Park Drive, Suite 220, Draper, UT 84020, (801) 523–0100.

i. *FERC Contact:* Steven Sachs at (202) 502–8666; or *Steven.Sachs@ferc.gov*.

j. Deadline for filing comments, motions to intervene, and protests, is 30

days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file any motion to intervene, protest, comments, and/or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–1273–018.

k. *Description of Request:* The Center Creek Hydroelectric Project currently includes a diversion dam which delivers water from Center Creek to a forebay, which then feeds the applicant's hydropower and irrigation systems. The applicant proposes to separate its hydropower and irrigation projects by installing a diversion wall/penstock intake directly on the diversion dam and adding approximately 460 feet of 20-inch-diameter steel and high density polyethylene penstock between the diversion dam and the existing penstock, bypassing the forebay.

l. *Locations of the Application:* This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number P–2058 in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above and at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: November 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–28283 Filed 12–1–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–15–000]

Regency Field Services, LLC; Notice of Application

Take notice that on November 12, 2014, Regency Field Services, LLC (Regency), 2001 Bryan St., Suite 3700, Dallas, Texas 75201, filed in Docket No. CP15–15–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting: (i) A certificate of public convenience and necessity authorizing Regency to own, operate and maintain its Crescent Residue Line, located in Logan County, Oklahoma, for the purpose of transporting its own natural gas; (ii) a blanket certificate, pursuant to Part 157, Subpart F, of the Commission's regulations; (iii) waivers of certain regulatory requirements; and (iv) confirmation that the Commission's assertion of jurisdiction over the Crescent Residue Line will not jeopardize the non-jurisdictional status of Regency's otherwise non-jurisdictional gathering and processing facilities and operations.

Regency states that it recently acquired the Crescent Residue Line. The Crescent Residue line is approximately 19 miles of ten-inch diameter natural gas residue pipeline, which transports Regency's own natural gas to the pipeline system of Southern Star Central Gas Pipeline, Inc., all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document.

Any questions regarding this application should be directed to Ms. Deena L. Jordan, Chief Compliance Officer, Regency Field Services, LLC, 2001 Bryant Street, Suite 3700, Dallas, Texas 75201, by telephone at (214) 840–5812 or by email at *deena.jordan@regencygas.com*.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the

Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: December 15, 2014.

Dated: November 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–28282 Filed 12–1–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–175–000.
Applicants: Kinetica Energy Express, LLC.
Description: Tariff Withdrawal per 154.205(a): Withdraw Filing 194.
Filed Date: 11/19/14.
Accession Number: 20141119–5002.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP15–184–000.
Applicants: Northwest Pipeline LLC.
Description: § 4(d) rate filing per 154.204: Non-Conforming Updates: Contracts 100010 & 140415 to be effective 12/19/2014.
Filed Date: 11/19/14.
Accession Number: 20141119–5103.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP15–185–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Compliance filing per 154.203: IDLS Revenue Sharing Report.
Filed Date: 11/19/14.
Accession Number: 20141119–5162.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP15–186–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) rate filing per 154.204: Vol 2—Non-Conforming Agreement—Chesapeake Energy Marketing, Inc. to be effective 12/1/2014.
Filed Date: 11/19/14.
Accession Number: 20141119–5172.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP15–187–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmts (QEP 37657 to BP 43484, 43485) to be effective 12/1/2014.
Filed Date: 11/20/14.
Accession Number: 20141120–5019.
Comments Due: 5 p.m. ET 12/2/14.

Docket Numbers: RP15–188–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: Compliance filing per 154.203: Annual Cash-Out Refund Report.
Filed Date: 11/20/14.
Accession Number: 20141120–5028.
Comments Due: 5 p.m. ET 12/2/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–965–001.
Applicants: Kinetica Energy Express, LLC.
Description: Compliance filing per 154.203: Kinetica Energy Express LLC—FERC Gas Tariff—Compliance—Sheet 108 to be effective 10/16/2014.
Filed Date: 11/19/14.
Accession Number: 20141119–5004.
Comments Due: 5 p.m. ET 12/1/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 20, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28254 Filed 12–1–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1819–008; ER10–1820–010; ER10–1818–007; ER10–1817–008.

Applicants: Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation, Public Service Company of Colorado, Southwestern Public Service Company.

Description: Notice of Non Material Change in Status of Northern States Power Company, a Minnesota corporation, et al.

Filed Date: 11/20/14.

Accession Number: 20141120–5224.

Comments Due: 5 p.m. ET 12/11/14.

Docket Numbers: ER12–480–007.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing per 35: 2014–11–21 Entergy Transition Cost Allocation Compliance Filing to be effective 6/1/2013.

Filed Date: 11/21/14.

Accession Number: 20141121–5173.

Comments Due: 5 p.m. ET 12/12/14.

Docket Numbers: ER13–104–005.

Applicants: Florida Power & Light Company.

Description: Compliance filing per 35: FPL Errata to Order No. 1000 Further Regional Compliance Filings to be effective 1/1/2015.

Filed Date: 11/21/14.

Accession Number: 20141121–5159.

Comments Due: 5 p.m. ET 12/12/14.

Docket Numbers: ER13–2318–004; ER14–2499–002; ER14–19–004; ER13–2319–004; ER13–2317–004; ER13–2316–004; ER13–1561–004; ER13–1430–004; ER12–995–003; ER12–637–003; ER11–3321–006; ER11–3320–006; ER10–2793–005; ER10–2755–006; ER10–2751–005; ER10–2744–007; ER10–2743–005; ER10–2742–005; ER10–2740–007; ER10–2739–009; ER10–1936–004; ER10–1892–005; ER10–1886–005; ER10–1872–005; ER10–1859–005; ER10–1854–006; ER10–1631–006.

Applicants: All Dams Generation, LLC, Arlington Valley Solar Energy II, LLC, Calhoun Power Company, LLC, Carville Energy LLC, Centinela Solar Energy, LLC, Cherokee County Cogeneration Partners, LLC, Columbia Energy LLC, Decatur Energy Center, LLC, DeSoto County Generating Company, LLC, Doswell Limited Partnership, Lake Lynn Generation, LLC, Las Vegas Power Company, LLC, LSP University Park, LLC, LS Power Marketing, LLC, MOBILE ENERGY LLC, Oneta Power, LLC, PE Hydro Generation, LLC, Renaissance Power, L.L.C., Riverside Generating Company, L.L.C., Rocky Road Power, LLC, Santa Rosa Energy Center, LLC, Seneca Generation, LLC, Tilton Energy LLC, University Park Energy, LLC, Wallingford Energy LLC, West Deptford Energy, LLC, Bluegrass Generation Company, L.L.C.

Description: Notification of Change in Status of the LS Power Development, LLC subsidiaries.

Filed Date: 11/20/14.

Accession Number: 20141120–5223.

Comments Due: 5 p.m. ET 12/11/14.

Docket Numbers: ER15–459–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3099; Queue No. W3–154 to be effective 11/21/2014.

Filed Date: 11/21/14.

Accession Number: 20141121–5121.

Comments Due: 5 p.m. ET 12/12/14.

Docket Numbers: ER15–460–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 3182; Queue No. W3–140 to be effective 11/4/2014.

Filed Date: 11/21/14.

Accession Number: 20141121–5122.

Comments Due: 5 p.m. ET 12/12/14.

Docket Numbers: ER15–461–000.

Applicants: New Athens Generating Company, LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Additional Revisions to MBR Tariff to be effective 11/24/2014.

Filed Date: 11/21/14.

Accession Number: 20141121–5123.

Comments Due: 5 p.m. ET 12/12/14.

Docket Numbers: ER15–462–000.

Applicants: Southern California Edison Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Agmt for Interconnection of NV Power Company Eldorado-Magnolia and Eldorado-NSO to be effective 11/22/2014.

Filed Date: 11/21/14.

Accession Number: 20141121–5131.

Comments Due: 5 p.m. ET 12/12/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 21, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28252 Filed 12–1–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–49–000.

Applicants: Valley Electric Association, Inc.

Description: eTariff filing per 35.19a(b): Refund Report for Valley Electric to be effective N/A.

Filed Date: 11/21/14.

Accession Number: 20141121–5107.

Comments Due: 5 p.m. ET 12/12/14.

Docket Numbers: ER13–79–006.

Applicants: Public Service Company of New Mexico.

Description: Compliance filing per 35: Supplement to Order No. 1000 OATT Regional Compliance Filing to be effective 1/1/2015.

Filed Date: 11/21/14.

Accession Number: 20141121–5061.

Comments Due: 5 p.m. ET 12/12/14.

Docket Numbers: ER14–2868–001.

Applicants: Portland General Electric Company.

Description: Tariff Amendment per 35.17(b): 7th Amend Boardman

Agreement Deficiency Response to be effective 11/1/2014.
Filed Date: 11/21/14.
Accession Number: 20141121–5101.
Comments Due: 5 p.m. ET 12/12/14.
Docket Numbers: ER15–124–001.
Applicants: Tucson Electric Power Company.
Description: Tariff Amendment per 35.17(b): Amendment to Filing to be effective 9/17/2014.
Filed Date: 11/21/14.
Accession Number: 20141121–5085.
Comments Due: 5 p.m. ET 12/12/14.
Docket Numbers: ER15–190–001.
Applicants: Duke Energy Renewable Services, LLC.
Description: Tariff Amendment per 35.17(b): Amendment to MBR Application to be effective 12/1/2014.
Filed Date: 11/21/14.
Accession Number: 20141121–5081.
Comments Due: 5 p.m. ET 12/12/14.
Docket Numbers: ER15–439–000; ER15–437–000; ER15–436–000; ER15–438–000; ER15–440–000.
Applicants: J.P. Morgan Ventures Energy Corporation.
Description: Supplement to November 18, 2014 J.P. Morgan Ventures Energy Corporation, et. al. tariff filings.
Filed Date: 11/20/14.
Accession Number: 20141120–5209.
Comments Due: 5 p.m. ET 12/11/14.
Docket Numbers: ER15–456–000.
Applicants: Florida Power & Light Company.
Description: Compliance filing per 35: Florida Power & Light Company's Order No. 676–H Compliance Filing to be effective 2/1/2015.
Filed Date: 11/20/14.
Accession Number: 20141120–5190.
Comments Due: 5 p.m. ET 12/11/14.
Docket Numbers: ER15–457–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 4038; Queue No. Z2–001 to be effective 11/10/2014.
Filed Date: 11/20/14.
Accession Number: 20141120–5191.
Comments Due: 5 p.m. ET 12/11/14.
Docket Numbers: ER15–458–000.
Applicants: Tampa Electric Company.
Description: Compliance filing per 35: Compliance Filing under Order 676–H to be effective 2/2/2015.
Filed Date: 11/21/14.
Accession Number: 20141121–5054.
Comments Due: 5 p.m. ET 12/12/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES15–5–000.
Applicants: Kingfisher Transmission, LLC, Kingfisher Wind, LLC.
Description: Application for authorization to issue securities and assume obligations and liabilities under Section 204 of the Federal Power Act of Kingfisher Transmission, LLC, et. al.
Filed Date: 11/20/14.
Accession Number: 20141120–5214.
Comments Due: 5 p.m. ET 12/11/14.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF14–742–000.
Applicants: Telephonics.
Description: Form 556 of Telephonics.
Filed Date: 8/28/14.
Accession Number: 20140828–5260.
Comments Due: None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 21, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28251 Filed 12–1–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–182–000.
Applicants: Gulf States Transmission LLC.
Description: § 4(d) rate filing per 154.204: Housekeeping on 11–18–14 to be effective 12/19/2014.
Filed Date: 11/18/14.
Accession Number: 20141118–5087.
Comments Due: 5 p.m. ET 12/1/14.
Docket Numbers: RP15–183–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) rate filing per 154.204: 11/18/14 Negotiatied Rates—NJR Energy Services Company (RTS) 2890–14 to be effective 11/18/2014.
Filed Date: 11/18/14.
Accession Number: 20141118–5162.
Comments Due: 5 p.m. ET 12/1/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 19, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28253 Filed 12–1–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Pick-Sloan Missouri Basin Program—Eastern Division-Rate Order No. WAPA–168

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Extension of Transmission and Ancillary Services Formula Rates.

SUMMARY: This action extends the existing transmission and ancillary services rates for the Pick-Sloan Missouri Basin Program—Eastern Division (P–SMB—ED) through December 31, 2016. The existing Rate Schedules UGP–NT1, UGP–FPT1, UGP–NFPT1, UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–AS7, and UGP–TSP1 are set to expire on December 31, 2014. These transmission and ancillary services rate schedules contain formula rates that are calculated annually using updated financial and load information.

DATES: This action is effective as of January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Harris, Regional Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266; telephone: (406) 255–2800; email: *rharris@wapa.gov*, or Ms. Linda Cady-Hoffman, Rates Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266; telephone: (406) 255–2920; email: *cady@wapa.gov*.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Administrator of Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This extension is issued pursuant to the Delegation Order and Department of Energy (DOE) rate extension procedures at 10 CFR part 903.23(a).

Rate Schedules UGP–NT1, UGP–FPT1, UGP–NFPT1, UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–AS7, and UGP–TSP1, contained in Rate Order Nos. WAPA–144 and WAPA–148,[1] were approved by FERC on September 23, 2010.[2] The existing formula rate schedules consist of separate rates for firm and non-firm transmission rates and ancillary services rates for the transmission facilities in the P–SMBP—ED, which are integrated with transmission facilities of Basin Electric Power Cooperative and Heartland Consumers Power District such that transmission services are provided over an Integrated System (IS). The rates are sometimes referred to as IS Rates.

The existing transmission and ancillary services formula rates are adequate to provide revenue to pay all annual costs, including interest expense, and to repay investment within the allowable period. The rates are calculated annually to ensure repayment of the project within the cost recovery criteria set forth in DOE Order RA 6120.2.

It should be noted that Western's Upper Great Plains Region (Western-UGP) has joined the Southwest Power Pool (SPP) Regional Transmission Organization (RTO) contingent upon FERC approval of Western-UGP's negotiated provision in the SPP Membership Agreement, Bylaws, and Tariff (SPP Governing Documents). Upon achieving final FERC approval of membership within SPP and transferring functional control of the portion of Western-UGP's P–SMBP—ED facilities in the Eastern Interconnection to SPP, Western-UGP will merge its Upper Great Plains East Balancing Authority Area in the Eastern Interconnection into SPP's Balancing Authority Area. Western-UGP will, however, retain operation of its Upper Great Plains West Balancing Authority Area in the Western Interconnection as the Balancing Authority (BA), and will not place the portion of its transmission system located in the Western Interconnect into SPP's Integrated Marketplace. Western-UGP plans to transfer functional control of the P–SMB—ED in the Western Interconnection by way of contract. At that time, transmission and ancillary services will be provided over Western-UGP facilities by SPP, and P–SMBP—ED transmission services will no longer be available on the IS under Western's Open Access Transmission Tariff. As a result, the existing Rate Schedules UGP–NT1, UGP–FPT1, UGP–NFPT1, UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–AS7, and UGP–TSP1 would no longer be applicable.

Rate extensions are authorized under 10 CFR 903.23. Rates previously confirmed and approved by FERC, for which no adjustment is contemplated, may be extended by the Deputy Secretary on an interim basis following notice of proposed extension at least 30 days before expiration.[3] On August 11, 2014, Western published a notice of the proposed extension in the **Federal Register**.[4] In accordance with 10 CFR part 903.23(a), Western provided for a consultation and comment period, but did not conduct public information forums or public comment forums. The consultation and comment period ended on September 10, 2014, and Western did not receive any comments.

Following review of Western's proposal within DOE, I hereby approve Rate Order No. WAPA–168, which extends, without adjustment, the existing firm and non-firm transmission rates and ancillary services Rate Schedules UGP–NT1, UGP–FPT1, UGP–NFPT1, UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–AS7, and UGP–TSP1 on an interim basis through December 31, 2016. Rate Order No. WAPA–168 will be submitted to FERC for confirmation and approval on a final basis.

Dated: November 21, 2014.

Elizabeth Sherwood-Randall,

Deputy Secretary of Energy.

DEPARTMENT OF ENERGY

DEPUTY SECRETARY

In the matter of:

Western Area Power Administration
Rate Extension for the
Pick-Sloan Missouri Basin Program—
Eastern Division
Rate Order No. WAPA–168

ORDER CONFIRMING AND APPROVING AN EXTENSION OF THE PICK-SLOAN MISSOURI BASIN PROGRAM—EASTERN DIVISION TRANSMISSION AND ANCILLARY SERVICES FORMULA RATE SCHEDULES

These rates were established in accordance with section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This Act transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), and other acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the Administrator of Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This extension is issued pursuant to the Delegation Order and DOE rate extension procedures at 10 CFR part 903.23(a).

BACKGROUND: Rate Schedules UGP–NT1, UGP–FPT1, UGP–NFPT1, UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–AS7, and UGP–TSP1, contained in Rate Order Nos. WAPA–144 and WAPA–148, were approved by FERC for a 5-year period on January 1, 2010, through December 31, 2014. FERC issued its approval on

[1] *See* 74 FR 68820 (December 29, 2009).

[2] *See U.S. Dept. of Energy, Western Area Power Admin.*, Docket No. EF10–3–000, 132 FERC ¶ 61,257 (2010).

[3] *See* 10 CFR 903.23(a) (2014).

[4] See 79 FR 46798 (August 11, 2014).

September 23, 2010, in Docket No. EF10–03–0000 (132 FERC ¶ 61,257). On August 11, 2014, Western published a notice in the **Federal Register** proposing to extend, without adjustment, Rate Schedules UGP–NT1, UGP–FPT1, UGP–NFPT1, UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–AS7, and UGP–TSP1 under Rate Order No. WAPA–168 (79 FR 46798). Western provided for a consultation and comment period, but did not conduct public information forums or public comment forums. The consultation and comment period ended on September 10, 2014. Western did not receive any comments.

DISCUSSION: The P–SMBP—ED firm and non-firm transmission rates and ancillary services Rate Schedules UGP–NT1, UGP–FPT1, UGP–NFPT1, UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–AS7, and UGP–TSP1 expire on December 31, 2014. The formula rates provide adequate revenue to pay all annual costs, including interest expense, and to repay investment within the allowable period. The rates are calculated annually to ensure repayment of the project within the cost recovery criteria set forth in DOE Order RA 6120.2. Rate Order No. WAPA–168 extends the existing formula Rate Schedules UGP–NT1, UGP–FPT1, UGP–NFPT1, UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–AS7, and UGP–TSP1 through December 31, 2016, thereby continuing to ensure repayment within the cost recovery criteria.

ORDER

In view of the foregoing and under the authority delegated to me, I hereby extend, on an interim basis, the existing firm and non-firm transmission and ancillary services formula Rate Schedules UGP–NT1, UGP–FPT1, UGP–NFPT1, UGP–AS1, UGP–AS2, UGP–AS3, UGP–AS4, UGP–AS5, UGP–AS6, UGP–AS7, and UGP–TSP1. Rate Order No. WAPA–168 extends, without adjustment, the existing formula rates through December 31, 2016. The formula Rate Schedules shall be in effect pending the FERC confirmation and approval of this extension or substitute formula rates on a final basis.

Dated: November 21, 2014

Elizabeth Sherwood-Randall

Deputy Secretary of Energy

[FR Doc. 2014–28370 Filed 12–1–14; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9919–99–OW]

Information Session; Stakeholder Input on Implementation of the Water Infrastructure Finance and Innovation Act of 2014

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is convening an information and stakeholder input session in Washington, DC on December 8, 2014. The purpose of the session is to discuss implementation of the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). WIFIA is an innovative financing mechanism for water-related infrastructure of national or regional significance. It was signed into law on June 11, 2014. EPA will be providing an overview of the statute, assistance options and terms, and suggesting ideas for implementing the program. The agency would like participants to discuss project ideas and potential selection criteria; opportunities, challenges and questions about implementation; and future stakeholder engagement. The intended audience is municipal, state and regional utility decision makers; private finance sector representatives; and other interested organizations and parties.

DATES: The session in Washington, DC will be held on December 8, 2014 from 9 a.m. to 4:30 p.m., eastern standard time.

ADDRESSES: The session will be held in Room 1153 at the EPA William Jefferson Clinton East Building, 1201 Constitution Avenue NW., Washington, DC 20004. All attendees must go through a metal detector, sign in with the security desk and show government-issued photo identification to enter government buildings.

To Register: Please register at the following link: *http://goo.gl/1dSOXA*. Members of the public are invited to participate in the session as capacity allows.

FOR FURTHER INFORMATION CONTACT: For further information about this notice, including registration information, contact Peter Shanaghan, EPA Headquarters, Office of Water, Office of Ground Water and Drinking Water 202–564–3848; or Jordan Dorfman, EPA Headquarters, Office of Water, Office of Wastewater Management at 202–564–0614; or email: *WIFIA@epa.gov*.

Dated: November 24, 2014.

Andrew D. Sawyers,

Director, Office of Wastewater Management.

[FR Doc. 2014–28394 Filed 12–1–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Acting Clearance Officer—John Schmidt—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following report(s):

1. Report title: Interagency Bank Merger Act Application.

Agency form number: FR 2070.

OMB Control number: 7100–0171.

Frequency: On occasion.

Reporters: State member banks.

Estimated annual reporting hours: Nonaffiliate Transactions: 1,680 hours; Affiliate Transactions: 198 hours.

Estimated average hours per response: Nonaffiliate Transactions: 30 hours; Affiliate Transactions: 18 hours.

Number of respondents: Nonaffiliate Transactions: 56; Affiliate Transactions: 11.

General description of report: This information collection is required pursuant to section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) and is not given confidential treatment. However, applicants may request that parts of a submitted application be kept confidential. In such cases, the burden is on the applicant to justify the exemption by demonstrating that disclosure would cause substantial competitive harm or result in an unwarranted invasion of personal privacy or would otherwise qualify for an exemption under the Freedom of Information Act (5 U.S.C. 552). The confidentiality status of the information submitted will be judged on a case-by-case basis.

Abstract: The Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (the agencies) each use this application form to collect information for bank merger proposals that require prior approval under the Bank Merger Act. Prior approval is required for every merger transaction involving affiliated or nonaffiliated institutions and must be sought from the regulatory agency of the depository institution that would survive the proposed transaction. A merger transaction may include a merger, consolidation, assumption of deposit liabilities, or certain asset-transfers between or among two or more institutions. The Federal Reserve collects this information so that it may meet its statutory obligation of evaluating (with respect to every state member bank merger proposal) the competitive effects, the adequacy of the financial and managerial resources of the institutions involved, and the effect on the convenience and needs of the affected communities.

2. *Report title:* Interagency Notice of Change in Bank Control, Interagency Notice of Change in Director or Senior Executive Officer, and Interagency Biographical and Financial Report.

Agency form number: FR 2081a, FR 2081b, and FR 2081c.

OMB control number: 7100–0134.

Frequency: On occasion.

Reporters: Bank holding companies (BHCs), state member banks (SMBs), and certain of their officers and shareholders.

Estimated annual reporting hours: FR 2081a: 5,040 hours; FR 2081b: 618 hours; FR 2081c: 6,680 hours.

Estimated average hours per response: FR 2081a: 30 hours; FR 2081b: 2 hours; FR 2081c: 4 hours.

Number of respondents: FR 2081a: 168; FR 2081b: 309; FR 2081c: 1,670.

General description of report: The FR 2081a and FR 2081c are mandatory pursuant to section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)). The FR 2081b and FR 2081c are mandatory pursuant to section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 1831(i)). This information collection is not given confidential treatment. The organizations and individuals that use the forms may request that all or a portion of the submitted information be kept confidential. In such cases, the burden is on the filer to justify the exemption by demonstrating that disclosure would cause substantial competitive harm or result in an unwarranted invasion of personal privacy or would otherwise qualify for an exemption under the Freedom of Information Act (5 U.S.C. 552). The confidentiality status of the information submitted will be determined on a case-by-case basis.

Abstract: The information collected assists the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (the agencies) in fulfilling their statutory responsibilities as supervisors. Each of these forms is used to collect information in connection with applications and notices filed prior to proposed changes in the ownership or management of banking organizations. The agencies use the information to evaluate the controlling owners, senior officers, and directors of the insured depository institutions subject to their oversight. The information collected in an Interagency Notice of Change in Bank Control (FR 2081a) submitted to the Federal Reserve is provided by persons proposing to make significant investments in a BHC or SMB. The information collected in the Interagency Notice of Change in Director or Senior Executive Officer (FR 2081b) is required under Section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and is submitted to the Federal Reserve (under certain circumstances) by a BHC or SMB making changes in its board of directors or senior executive officers. The Interagency Biographical and Financial Report (FR 2081c) is not a stand-alone reporting form; it is a companion reporting form to the FR 2081a and the FR 2018b (and to other Federal Reserve information collections) that is used to gather required information about the individuals involved in various applications and notices.

Current Actions: On September 12, 2014, the Federal Reserve published a notice in the **Federal Register** (79 FR 54720) requesting public comment for 60 days on the extension, without revision, of the Interagency Bank Merger Act Application; and of the Interagency Notice of Change in Bank Control, Interagency Notice of Change in Director or Senior Executive Officer, and Interagency Biographical and Financial Report. The comment period for this notice expired on November 12, 2014. The Federal Reserve did not receive any comments. The information collections will be extended as proposed.

Board of Governors of the Federal Reserve System, November 26, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–28350 Filed 12–1–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before February 2, 2015.

ADDRESSES: You may submit comments, identified by the *FR 2052a and FR 2052b reports,* by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Acting Clearance Officer—John Schmidt—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Reports

Report titles: The Complex Institution Liquidity Monitoring Report (FR 2052a) and the Liquidity Monitoring Report (FR 2052b).

Agency form numbers: FR 2052a and FR 2052b.

OMB control number: 7100–0361.

Frequency: 2052a: Daily or monthly; 2052b: Quarterly.

Respondents:

- FR 2052a: Bank holding companies, savings and loan holding companies subject to the liquidity coverage ratio, and nonbank financial companies that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect, where the Board has applied the requirements of the liquidity coverage ratio to such company by rule or order (together, U.S. chartered firms) with total assets of $700 billion or more or with $10 trillion or more in assets under custody; U.S. chartered firms with total assets of less than $700 billion and with assets under custody of less than $10 trillion, but total assets of $250 billion or more or foreign exposure of $10 billion or more; U.S. chartered firms with total assets of $50 billion or more but, total assets of less than $250 billion and foreign exposure of less than $10 billion; Foreign banking organizations (FBOs) with U.S. assets of $50 billion or more and broker/dealer assets of $100 billion or more; FBOs with U.S. assets of $50 billion or more and broker/dealer assets of less than $100 billion.
- FR 2052b: U.S. bank holding companies (BHCs) not controlled by FBOs with total consolidated assets of $10 billion or more but less than $50 billion.

Estimated annual reporting hours: FR 2052a: 396,120 hours; FR 2052b: 11,280 hours.[1]

Estimated average hours per response: FR 2052a: Ranges between 120 hours and 400 hours; FR 2052b: 60 hours.

Number of respondents: FR 2052a: 50; FR 2052b: 47.

General description of report: These reports are authorized pursuant to section 5 of the Bank Holding Company Act (12 U.S.C. 1844), section 8 of the International Banking Act (12 U.S.C. 3106) and section 165 of the Dodd Frank Act (12 U.S.C. 5365) and are mandatory. Section 5(c) of the Bank Holding Company Act authorizes the Board to require BHCs to submit reports to the Board regarding their financial condition. Section 8(a) of the International Banking Act subjects FBOs to the provisions of the Bank Holding Company Act. Section 165 of the Dodd-Frank Act requires the Board to establish prudential standards for certain BHCs and FBOs; these standards include liquidity requirements. The individual financial institution information provided by each respondent would be accorded confidential treatment under exemption 8 of the Freedom of Information Act (5 U.S.C. 552(b)(8)). In addition, the institution information provided by each respondent would not be otherwise available to the public and is entitled to confidential treatment under the authority of exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)), which protects from disclosure trade secrets and commercial or financial information.

Abstract: The FR 2052 reports are used to monitor the overall liquidity profile of institutions supervised by the Federal Reserve. These data provide detailed information on the liquidity risks within different business lines

[1] With the proposed revisions, the paperwork burden for 2015 is estimated to initially decrease to 407,400 hours, with incremental increases for 2016 and 2017, for an annual net increase of 938,240 hours. Please see the OMB supporting statement for additional detail.

(*e.g.*, financing of securities positions, prime brokerage activities). In particular, these data serve as part of the Federal Reserve's supervisory surveillance program in its liquidity risk management area and provide timely information on firm-specific liquidity risks during periods of stress. Analysis of systemic and idiosyncratic liquidity risk issues are then used to inform the Federal Reserve's supervisory processes, including the preparation of analytical reports that detail funding vulnerabilities.

Current actions: The Federal Reserve proposes to extend for three years, with revision, the Complex Institution Liquidity Monitoring Report (FR 2052a) and the Liquidity Monitoring Report (FR 2052b) (OMB No. 7100–0361) effective beginning March 31, 2015. The Federal Reserve proposes to revise the FR 2052a report by modifying the: (1) Respondent panel and threshold, (2) frequency of reporting, (3) reporting platform structure, and (4) data item granularity. The Federal Reserve proposes to revise the FR 2052b report by modifying the respondent panel threshold and frequency. The proposed revisions are described in detail below.

The Federal Reserve proposes to revise the FR 2052a report to improve the effectiveness of its supervisory surveillance program. In general, the revisions would provide additional detail to facilitate a more sophisticated approach to monitoring liquidity risk. The proposed data elements are more detailed and would align with the Liquidity Coverage Ratio (LCR).[2] For the most internationally active firms, liquidity profiles would be reported by currency for each material entity of the reporting institutions, which for BHCs may include sub-divisions of the global banking entity by geographical region, and for FBOs would include material entities outside the U.S. that are managed from the U.S. These dimensions are important because dislocations in foreign exchange markets and restrictions limiting fund transfers can inhibit the ability of a global financial institution to convert its available sources of liquidity to meet its specific needs. The proposed data collection would collect more details regarding securities financing transactions, wholesale unsecured funding, deposits, loans, unfunded commitments, collateral, derivatives, and foreign exchange transactions. The greater level of detail surrounding these activities is necessary to ensure that supervised firms are adequately reserving for the risks based on current supervisory expectations and the Dodd-Frank Act's Enhanced Prudential Standards. Furthermore, the Federal Reserve proposes to change the structure of the collection to an XML format from a spreadsheet format. This new structure is necessary to accommodate the additional granularity and implement the collection with leading data industry practices.

The revisions to FR 2052a include a new hierarchy that subdivides the three general categories of inflows, outflows and supplemental items into 10 distinct data tables. These tables are designed to stratify the assets, liabilities and supplemental components of a firm's liquidity risk profile based on products that can be described with common data structures, while still maintaining a coherent framework for liquidity risk reporting.

The internationally active reporting entities would report by major currency all data elements denominated in major currencies, while other data elements denominated in non-major currencies would be converted into United States Dollars (USDs) and flagged as converted. Reporting entities that are not internationally active would be able to report exclusively in USD by flagging data as converted. Reporting by major currency or flagging a conversion should help supervisors to identify potential currency mismatches. Additionally, data elements would be reported for each material legal entity, which are identified by the Federal Reserve for a given reporting entity. All entities that are required to comply with the LCR are considered material legal entities. This granularity in currency and material legal entity reporting would enhance monitoring of a firm's liquidity resources to ensure they are distributed according to specific needs, considering existing or potential regulatory or other limitations on inter-company liquidity transfers.

The granularity of the data increased along numerous items of FR 2052a. Maturity buckets increased to daily for the first 60 days to eliminate potential contractual maturity mismatches in the near term. There are now more categories of assets, largely delineated by the type of security or loan, the structuring of cash flows, and risk-based capital weightings. The list of counterparty types increased, along with the number of products requiring the counterparty to be reported, including loan cash flows, deposits, committed facilities, and certain unsecured borrowings.

The proposed revisions would also draw more distinction between types of securities financing transactions such as collateral swaps, to-be-announced contracts, and the various methods of covering firm or customer short sales. Fields would be added for the amount of re-hypothecation, collateralization, encumbrance, and methods of settlement. The report would provide information on the stock and flow of collateral received and posted for derivative transactions, as well as values of prime brokerage client assets and associated wire transfers. Together, these revisions to secured financing transactions would provide a more complete view of the firm's activities, especially brokerage activities, and certain liquidity risk characteristics, all of which were implicated during the recent financial crisis.

Several new types of deposit accounts would also be added, such as escrow accounts and various categories of brokered deposits and sweeps. Balances that are "fully insured" would be identified, as well as balances that are subject to withdrawal in the event of a specific change or trigger.

Certain elements would be added to capture risk associated with collateral. The potential requirements to post collateral in the event of an adverse move in the mark-to-market value of a firm's derivative portfolio or a change in a firm's financial condition is reported. Additionally, firms would report collateral balances that are contractually owed to a counterparty, but not yet called.

Fields would be added to capture the settlement date cash flows in forward starting transactions. This revision would accommodate "trade date" reporting, which would allow for a more accurate representation of forward looking cash flows.

The instructions for reporting the maturity date of a transaction would also be modified for short term (less than one year) liabilities with call options, as well as certain transactions reported in the Secured Inflows table where the collateral received was rehypothecated.

Reporting of foreign exchange transactions, such as foreign exchange spot, forwards and futures, and swap transactions, would be required in order to complement the currency level reporting of cash flows.

The proposed revisions to the FR 2052a report includes sections covering broad funding classifications by product, outstanding balance and purpose, segmented by maturity date. Generally, each section can be classified into one of the following categories:

[2] 79 FR 61440 (October 10, 2014). Press Release is available at *http://www.federalreserve.gov/newsevents/press/bcreg/20140903a.htm.*

• *Section 1: Inflows-Assets:* Institutions would report assets such as unencumbered assets, borrowing capacity from central banks or FHLBs, unrestricted reserve balances at central banks, restricted reserve balances at central banks, unsettled asset purchases, and forward asset purchases.

• *Section 2: Inflows-Unsecured:* Institutions would report unsecured inflow transactions such as onshore placement, offshore placements, required nostro balances, excess nostro balances, outstanding draws on revolving facilities, and other unsecured loans.

• *Section 3: Inflows-Secured:* Institutions would report secured inflow transactions such as reverse repurchase agreements, securities borrowing transactions, dollar rolls, collateral swaps, margin loans, other secured loans where the collateral is rehypothecatable, and other secured loans where the collateral is not rehypothecatable.

• *Section 4: Inflows-Other:* Institutions would report other inflow transactions such as derivatives receivables, collateral called for receipt, sales in the to-be-announced market, undrawn committed facilities purchased, lock-up balances, interest and dividends receivables, a net 30-day derivatives receivables measure, principal payments receivable on unencumbered investment securities, and other inflow transactions.

• *Section 5: Outflows-Wholesale:* Institutions would report wholesale outflow transactions such as asset-backed commercial paper single-seller outflows, asset-back commercial paper multi-seller outflows, collateralized commercial paper, asset-backed securities, covered bonds, tender option bonds, other asset-backed financing, commercial paper, onshore borrowing, offshore borrowing, unstructured long-term debt, structured long-term debt, government supported debt, unsecured notes, structured notes, wholesale certificates of deposit, draws on committed facilities, free credits, and other unsecured wholesale outflow transactions.

• *Section 6: Outflows-Secured:* Institutions would report secured outflow transactions such as repurchase agreements, securities lending transactions, dollar rolls, collateral swaps, FHLB Advances, outstanding secured funding from facilities at central banks, customer short transactions, firm short transactions, and other secured outflow transactions.

• *Section 7: Outflows-Deposits:* Institutions would report deposit outflow transactions such as transactional accounts, non-transactional relationship accounts, non-transactional non-relationship accounts, operational accounts, non-operational accounts, operational escrow accounts, non-reciprocal brokered accounts, affiliated sweep accounts, non-affiliated sweeps accounts, other product sweep accounts, reciprocal accounts, other third-party deposits, and other deposit accounts.

• *Section 8: Outflows-Other:* Institutions would report other outflow transactions such as derivatives payables, collateral called for delivery, purchases in the to-be-announced market, credit facilities, liquidity facilities, retail mortgage commitments, trade finance instruments, potential derivative valuation changes, loss of rehypothecation rights and collateral required due to changes in financial condition, excess customer margin, commitments to lend on margin to customers, interest and dividends payables, a net 30-day derivatives payables measure, other outflows related to structured transactions, and other cash outflow transactions.

• *Section 9: Supplemental-Informational:* Institutions would report supplemental information such as initial margin posted and received, variation margin posted and received, collateral dispute receivables and deliverables, collateral that may need to be delivered, collateral that the institution could request to be received, collateral that could be substituted by the institution or a counterparty, long and short market value of client assets, gross client wires received and paid, subsidiary liquidity that cannot be transferred, 23A capacity, outflows or inflows from closing out hedges early, and potential outflows from non-structured or structured debt maturing beyond 30 days where the institution is the primary market maker in that debt.

• *Section 10: Supplemental-Foreign Exchange:* Institutions would report foreign exchange information such as foreign exchange spot, forwards and futures, and swap transactions.

The Federal Reserve requests specific comment on the following:

• The proposal would require data retention of six months. Is six months appropriate or would another time period be more appropriate, such as three months or one year?

• Is the proposed maturity schedule provided in Appendix IV to the instructions appropriate for all respondents, such as those firms that are only subject to the Liquidity Coverage Ratio for Certain Bank Holding Companies? [3] If not appropriate, what maturity schedule should apply to those respondents? Additionally, is the proposed maturity schedule provided in Appendix IV to the instructions appropriate for all listed products? If not, what maturity schedule should apply to those products?

• Should a description of how the FR 2052a data will be used to monitor LCR compliance be published?

Proposed FR 2052b Revisions

The Federal Reserve proposes to revise the FR 2052b reporting panel by eliminating the monthly reporting frequency. The U.S. BHCs (excluding G–SIBs) with total consolidated assets of $50 billion or more (including FBO subsidiaries) that currently file the monthly FR 2052b report would move to the proposed FR 2052a monthly and daily reporting panel.

Proposed Reporting Panel and Frequency of Submissions [4]

The proposed scope of application, frequency, and submission dates are contained in the following table.

Report No.	Reporter description	Frequency	First as-of date	First submission date [5]
FR 2052a	U.S. chartered firms with total assets ≥$700 billion or with assets under custody of ≥$10 trillion.	Monthly	[6] 03/31/2015	04/02/2015
		Daily	07/01/2015	07/03/2015

[3] 79 FR 61440, 61540.

[4] SLHCs that are not subject to the LCR are not subject to these reporting requirements, however, through future rulemakings these institutions may be required to participate in some form of liquidity monitoring.

Report No.	Reporter description	Frequency	First as-of date	First submission date [5]
FR 2052a	U.S. chartered firms with total assets <$700 billion and with assets under custody of <$10 trillion but, total assets ≥$250 billion or foreign exposure ≥$10 billion.	Monthly Daily	[7] 07/31/2015 07/01/2016	08/02/2015 07/03/2016
FR 2052a [8]	U.S. chartered firms with total assets ≥$50 billion but, total assets <$250 billion and foreign exposure <$10 billion.	Monthly	01/31/2016	02/02/2016
FR 2052a	FBOs with U.S. assets ≥$50 billion and U.S. broker-dealer assets ≥$100 billion.	Monthly Daily	03/31/2015 07/01/2015	04/02/2015 07/03/2015
FR 2052a	FBOs with U.S. assets ≥$50 billion and U.S. broker-dealer assets <$100 billion.	Monthly Monthly [9]	01/31/2016 07/31/2016	02/02/2016 08/02/2016
FR 2052b [10]	U.S. BHCs (not controlled by FBOs) with total consolidated assets of between $10 billion and $50 billion.	Quarterly	12/31/2014	01/15/2015

The parent company for those firms with less than $250 billion in total consolidated assets and with less than $10 billion of on-balance sheet foreign exposure would submit data for the following entities: The global consolidated entity and the parent only (ignoring consolidated subsidiaries). Respondents should consult their supervisory teams to determine if the parent company should also separately report any consolidated banks or non-banks that are material contributors to the firm's funding and liquidity operations.

The parent company for those firms with $250 billion or more in total consolidated assets or $10 billion or more of on-balance sheet foreign exposure would submit data for the following entities: The global consolidated entity, the parent only (ignoring consolidated subsidiaries), and, separately, each consolidated bank and non-bank entity that is a material contributor to the firm's funding and liquidity operations. For these firms, all bank entities with total consolidated assets of $10 billion or more would be considered material legal entities. Respondents should consult their supervisory teams to determine other material legal entities that should also be reported.

FBOs with U.S. assets of $50 billion or more would report for their consolidated U.S. assets, as well as for all material entities managed within the U.S. For FBOs that own U.S. entities subject to the LCR, material entities include at least those entities subject to the LCR. Respondents should consult their supervisory teams to determine other material entities that should also be reported.

Some firms that are currently filing on FR 2052b would be required to file on the updated 2052a, pursuant to the proposed schedule set forth in the transition table. The firms currently filing on FR 2052b would cease filing the 2052b once they begin filing the updated 2052a.

Firms currently filing the FR 2052a would be required to file the updated 2052a, pursuant to the proposed schedule set forth in the transition table. The firms currently filing on FR 2052a would cease filing on the current 2052a once they are filing daily on the updated 2052a.

Additionally, there are some firms that are not currently filing either the 2052a or 2052b, but would be required to file the updated 2052a, pursuant to the proposed schedule set forth in the transition table. Among these companies are SLHCs that are subject to the LCR and nonbank financial companies that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect, where the Board has applied the requirements of the LCR to such company by rule or order.

The Board consulted outside the Federal Reserve System with other U.S. regulatory authorities including the Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation in the development of FR 2052a. In addition, data sharing agreements will be constituted with other U.S. regulatory agencies with supervisory responsibilities over subject institutions to monitor compliance with the LCR and to ensure there are no redundant data collections. Also, the Federal Reserve has held general discussions with financial institutions regarding the proposed revisions.

Board of Governors of the Federal Reserve System, November 26, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–28351 Filed 12–1–14; 8:45 am]

BILLING CODE 6210–01–P

[5] For U.S. bank holidays and weekends, no positions should be reported. For data reported by entities in international locations, if there is a local bank holiday, submit data for those entities using the data from the previous business day.

[6] These firms must comply with the transitions set forth in the LCR, which requires an LCR calculation monthly starting in January 2015. However, these firms do not need to report on 2052a until this reporting as-of date.

[7] These firms must comply with the transitions set forth in the LCR, which requires an LCR calculation monthly starting in January 2015. However, these firms do not need to report on 2052a until this reporting as-of date.

[8] The frequency of the FR 2052a monthly report may be temporarily adjusted to daily on a case-by-case basis as market conditions and supervisory needs change to carry out effective continuous liquidity monitoring. The Federal Reserve anticipates frequency adjustments to be a rare occurrence.

[9] These FBOs would be required to have the ability to report on each business day. If the FBO consolidates a U.S. chartered firm that would independently have to report daily, then the FBO must report daily. The Federal Reserve would test these FBOs for their ability to report daily.

[10] FR 2052b will not change for U.S. BHCs (not controlled by FBOs) with total consolidated assets of between $10 billion and $50 billion, so the frequency and as-of date will be the same as it is currently.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at

the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 16, 2014.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *GCP III EVB LLC, a limited liability company; Greenhill Capital Partners III, L.P., a limited partnership; Greenhill Capital Partners (Cayman Islands) III, L.P., a limited partnership; Greenhill Capital Partners (GHL) III, L.P., a limited partnership; Greenhill Capital Partners (Employees) III, L.P., a limited partnership; GCP Managing Partner III, L.P., a limited partnership; GCP Managing Partner III GP, L.P., a limited partnership; GCP Capital Partners Holdings LLC, a limited partnership; GCP Capital Partners Holdings Inc., a corporation; GCP Capital Partners LLC, a limited partnership; Robert H. Niehaus,* all of New York, New York, and *Boris Gutin,* Montclair, New Jersey; to acquire voting shares of Eastern Virginia Bankshares, Inc., and thereby indirectly acquire voting shares of EVB, both in Tappahannock, Virginia.

Board of Governors of the Federal Reserve System, November 26, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–28356 Filed 12–1–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of October 28–29, 2014

In accordance with Section 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on October 28–29, 2014.[1]

Consistent with its statutory mandate, the Federal Open Market Committee seeks monetary and financial conditions that will foster maximum employment and price stability. In particular, the Committee seeks conditions in reserve markets consistent with federal funds trading in a range from 0 to ¼ percent. The Committee directs the Desk to undertake open market operations as necessary to maintain such conditions. The Desk is directed to conclude the current program of purchases of longer-term Treasury securities and agency mortgage-backed securities by the end of October. The Committee directs the Desk to maintain its policy of rolling over maturing Treasury securities into new issues and its policy of reinvesting principal payments on all agency debt and agency mortgage-backed securities in agency mortgage-backed securities. The Committee also directs the Desk to engage in dollar roll and coupon swap transactions as necessary to facilitate settlement of the Federal Reserve's agency mortgage-backed securities transactions. The System Open Market Account manager and the secretary will keep the Committee informed of ongoing developments regarding the System's balance sheet that could affect the attainment over time of the Committee's objectives of maximum employment and price stability.

By order of the Federal Open Market Committee, November 20, 2014.

William B. English,

Secretary, Federal Open Market Committee.

[FR Doc. 2014–28302 Filed 12–1–14; 8:45 am]

BILLING CODE 6210–01–P

[1] Copies of the Minutes of the Federal Open Market Committee at its meeting held on October 28–29, 2014, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's Annual Report.

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 26, 2014.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *WesBanco, Inc.,* Wheeling, West Virginia; to acquire 100 percent of the voting shares of ESB Financial Corporation, and indirectly acquire ESB Bank, both in Ellwood City, Pennsylvania, and thereby engage in operating a savings association, pursuant to section 224.28(b)(4)(ii).

Board of Governors of the Federal Reserve System, November 26, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–28357 Filed 12–1–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 122 3252]

Deutsch LA, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before December 29, 2014.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/deutschlaconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Deutsch LA, Inc.—Consent Agreement; File No. 122 3252" on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/deutschlaconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write "Deutsch LA, Inc.—Consent Agreement; File No. 122 3252" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–

5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Linda Badger, Western Region—San Francisco, (415–848–5151), 901 Market Street, Suite 570, San Francisco, CA 94103.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for November 25, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm*.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 29, 2014. Write "Deutsch LA, Inc.—Consent Agreement; File No. 122 3252" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm*. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/deutschlaconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write "Deutsch LA, Inc.—Consent Agreement; File No. 122 3252" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 29, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing consent order from Deutsch LA, Inc., ("respondent"). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

Respondent is an advertising agency hired by Sony Computer Entertainment America LLC ("SCEA") to develop an advertising campaign for the PlayStation Vita ("PS Vita"). The PS Vita is a game console that SCEA first offered for sale in the United States on February 22, 2012. The PS Vita is part of SCEA's line of game consoles, including the PlayStation 3 video game console ("PS3"), which allows consumers to play video games on their television sets. Unlike the PS3, the PS Vita is a handheld, portable game console that allows consumers to play games away from their television sets. In addition to selling game consoles, SCEA is one of many game developers writing game titles for use on its PS3 and PS Vita game consoles. At the time the PS Vita was launched, "MLB 12: The Show" was a popular SCEA title for the PS3.

According to the complaint, advertisements developed by respondent promoted two notable features of the PS Vita. First, respondent's advertisements represented that, with the "cross platform gaming" or "cross save" feature of the PS Vita, consumers could begin playing a game on a PS3 console, save their progress at a specific point in the game, and then continue that game where they left off on the PS Vita. Second, respondent's advertisements represented that with the "3G version" the PS Vita, available for an extra $50 and monthly fees, consumers could access a 3G network to play games live with others ("multiplayer gaming"). The complaint alleges that advertisements respondent developed to promote these features were false or misleading and thus violate the FTC Act.

The FTC's complaint alleges that respondent made false or misleading

claims about the cross save feature in advertisements it developed to promote the PS Vita. For example, the complaint alleges that respondent's advertisements represent that PS Vita users are able to pause any PS3 game they are playing on their PS3 consoles at a specific point in the game, and continue to play that game where they left off on the PS Vita. Contrary to this representation, this feature is available only for a limited number of PS3 game titles. Further, the pause and save feature described in the advertisements varies significantly by game. For example, with respect to the game depicted in the advertisement for this feature, "MLB 12: The Show," consumers are able to pause and save the game to the PS Vita only after they have finished the entire baseball game (all nine innings) on the PS3. The complaint also alleges that with respect to this feature, respondent failed to disclose the material fact that, with games such as MLB 12: The Show, consumers would have to own two versions of the same game, one for the PS3 and one for the PS Vita, in order to use this feature.

The complaint also addresses advertising claims made for features relating to the 3G version of the PS Vita. Specifically, the complaint alleges as false or misleading the representation that PS Vita users who own the 3G version are able to engage in live, multiplayer gaming through a 3G network. In fact, PS Vita users are restricted to asynchronous or "turn-based" multiplayer gaming with the 3G version of the PS Vita.

Additionally, the FTC's complaint includes allegations that the respondent misled consumers through deceptive product endorsements. Specifically, respondent included the term "#gamechanger" in its advertisements for the PS Vita to direct consumers to online conversations about the PS Vita on Twitter. According to the complaint, approximately one month before SCEA offered the PS Vita for sale to the public, one of respondent's assistant account executives sent an email message to all of respondent's employees asking them to help with the advertising campaign by posting comments about the PlayStation Vita on Twitter, using the #gamechanger hashtag. According to the complaint, as a result of this email message, various Deutsch employees used their personal Twitter accounts to post positive comments about the PS Vita. According to the complaint, these tweets about the PS Vita were false and misleading because they were not independent comments reflecting the views of ordinary consumers who had used the PS Vita. The complaint also alleges that these comments were deceptive because respondent failed to disclose the material fact that employees of an advertising agency hired to promote the PS Vita wrote them.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Part I of the proposed order prohibits respondent from misrepresenting any material gaming feature or capability of any Handheld Game Console Product when used as a standalone device to play video games. Because respondent is an advertising agency, however, the proposed order states that it shall be a defense that respondent neither knew nor had reason to know that such feature or capability was misrepresented.

Part II of the proposed order prohibits respondent from making any representation about the material capability of any Handheld or Home Game Console Product to interact with, or connect to, any other Handheld Game Console Product during gaming, unless at the time it is made, respondent possesses and relies upon competent and reliable evidence that substantiates the representation. Again, because respondent is an advertising agency, the proposed order states that it shall be a defense that respondent neither knew nor had reason to know that such capability was not substantiated by competent and reliable evidence.

Part III of the proposed order prohibits respondent from making any representation about the material capability of any Handheld or Home Game Console Product to interact with, or connect to, any other Handheld or Home Game Console Product during gaming, unless it discloses, clearly and prominently, and in close proximity to the representation, that consumers must purchase two versions of the same video game, one for each console, if such is the case. Due to respondent's status as an advertising agency, the proposed order states that it shall be a defense that respondent neither knew nor had reason to know that consumers must purchase two versions of the same video game to use such capacity.

Parts IV through VI of the proposed order address respondent's use of deceptive product endorsements. Part IV prohibits respondent from misrepresenting that an endorser of any Handheld Game Console Product, Home Game Console Product or Video Game Product, is an independent user or ordinary consumer of the product.

Part V of the proposed order prohibits the respondent, in connection with the advertising of any Handheld Game Console Product, Home Game Console Product or Video Game Product, from making any representation about any endorser of such product, unless it discloses, clearly and prominently, a material connection, when one exists between such endorser and respondent or any other individual or entity manufacturing, advertising, labeling, promoting, offering for sale, selling or distributing such product. The proposed order defines "material connection" as any relationship that materially affects the weight or credibility of any endorsement that would not be reasonably expected by consumers.

Part VI of the proposed order requires respondent to take all reasonable steps to remove, within seven days of the service of the order, any previously posted product review or endorsement under its control that does not comply with Parts IV and V of the order.

Part VII of the proposed order contains recordkeeping requirements for advertisements and substantiation relevant to representations covered by Parts I through VI of the order.

Parts VIII through X of the proposed order require the company to: Deliver a copy of the order to certain personnel having managerial responsibilities with respect to the subject matter of the order; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission.

Part XI of the proposed order provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order or to modify the proposed order's terms in any way.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–28347 Filed 12–1–14; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 122 3252]

Sony Computer Entertainment America LLC; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before December 29, 2014.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/sonyceaconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Sony Computer Entertainment America LLC—Consent Agreement; File No. 122 3252" on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/sonyceaconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write "Sony Computer Entertainment America LLC—Consent Agreement; File No. 122 3252" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Linda Badger, Western Region-San Francisco, (415–848–5151), 901 Market Street, Suite 570, San Francisco, CA 94103.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for November 25, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 29, 2014. Write "Sony Computer Entertainment America LLC—Consent Agreement; File No. 122 3252" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/sonyceaconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write "Sony Computer Entertainment America LLC—Consent Agreement; File No. 122 3252" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 29, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing consent order from Sony Computer Entertainment America LLC ("SCEA" or "respondent"). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR § 4.9(c).

appropriate action or make final the agreement's proposed order.

This matter involves respondent's advertising of the PlayStation Vita ("PS Vita"), a gaming console. Respondent first offered the PS Vita for sale in the United States on February 22, 2012, for approximately $250. The PS Vita is part of respondent's line of game consoles, including the PlayStation 3 video game console ("PS3"), which allows consumers to play video games on their television sets. Unlike the PS3, the PS Vita is a handheld, portable game console that allows consumers to play games away from their television sets. In addition to selling game consoles, respondent is one of the many game developers writing game titles for use on its PS3 and PS Vita game consoles. At the time the PS Vita was launched, "MLB 12: The Show," and "Killzone 3," were popular SCEA game titles for the PS3.

According to the complaint, respondent advertised several notable features of the PS Vita. First, respondent promoted the "remote play" feature of the PS Vita as a way that consumers could access games already residing on their PS3 consoles and play them remotely on the PS Vita anywhere with a Wi-Fi connection. Second, advertisements represented that, with the "cross platform gaming" or "cross save" feature, consumers could begin playing a game on a PS3 console, save their progress at any point in the game, and then continue that game where they left off on the PS Vita. Third, with the "3G version" the PS Vita, available for an extra $50 and monthly fees, advertisements represented that consumers could access a 3G network to play games live with others ("multiplayer gaming"). The complaint alleges that respondent's advertising of these features was false or misleading and thus violates the FTC Act.

With respect to the remote play feature, the FTC's complaint alleges that respondent misrepresented that, with this feature, PS Vita users can easily access their PS3 games on the PS Vita. According to the complaint, PS Vita users could not easily access their PS3 games on the PS Vita. Indeed, most PS3 games are not remote playable on the PS Vita, and respondent did not specifically design the PS3 system to support remote play functionality. In addition, the complaint alleges as false or misleading respondent's claim that PS Vita users can, with remote play, easily access Killzone 3 and other similar, data-rich PS3 games. Respondent never enabled remote play on its Killzone 3 title, and very few, if any, data-rich PS3 games of similar size and complexity to Killzone 3 were remote play compatible on the PS Vita.

The complaint also alleges that the respondent made false or misleading claims about the cross save feature of the PS Vita. Contrary to respondent's advertisements, PS Vita users are not able to pause any PS3 game they are playing on their PS3 consoles at any point in the game, and continue to play that game where they left off on the PS Vita. The complaint states that this feature is available only for a limited number of PS3 game titles, and that the pause and save feature varies significantly by game. For example, with respect to "MLB 12: The Show," consumers are able to pause and save the game to the PS Vita only after they have finished the entire baseball game (all nine innings) on the PS3. The complaint also alleges that with respect to this feature, respondent failed to disclose that, with games such as MLB 12: The Show, consumers would have to own two versions of the same game, one for the PS3 and one for the PS Vita, to use this feature.

Finally, the complaint addresses advertising claims made for features relating to the 3G version of the PS Vita. Specifically, the complaint alleges as false or misleading the representation that PS Vita users who own the 3G version are able to engage in live, multiplayer gaming through a 3G network. According to the complaint, PS Vita users are restricted to asynchronous or "turn-based" multiplayer gaming with the 3G version of the PS Vita.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future, as well as a provision to redress certain consumers. Part I of the order prohibits respondent from misrepresenting any material gaming feature or capability of any Handheld Game Console Product, when used as a standalone device to play video games.

Part II of the proposed order prohibits respondent from making any representation about the material capability of any Handheld or Home Game Console Product to interact with, or connect to, any other Handheld Game Console Product during gaming, unless at the time it is made, respondent possesses and relies upon competent and reliable evidence that substantiates the representation.

Part III of the proposed order prohibits respondent from making any representation about the material capability of any Handheld or Home Game Console Product to interact with, or connect to, any other Handheld or Home Game Console Product during gaming, unless it discloses, clearly and prominently, and in close proximity to the representation, that consumers must purchase two versions of the same video game, one for each console, if such is the case.

Part IV of the proposed order provides for consumer redress to "eligible purchasers" of the PS Vita. The proposed order defines "eligible purchasers" as consumers who purchased the PS Vita before June 1, 2012, and did not return it for a full refund. SCEA will offer these consumers $25 dollars in cash or credit or the alternative of a voucher (or other entitlement) for merchandise, video games, and/or services with a retail value of $50 or more.

Part V of the proposed order contains recordkeeping requirements for advertisements and substantiation relevant to representations covered by Parts I through III of the order.

Parts VI through VIII of the proposed order require the company to: Deliver a copy of the order to certain personnel having managerial responsibilities with respect to the subject matter of the order; notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and file compliance reports with the Commission.

Part IX of the proposed order provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–28346 Filed 12–1–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Statement of Delegation of Authority

Notice is hereby given that I have delegated to the Director, National Institutes of Health (NIH), or his or her successor, the authorities vested in the Secretary of Health and Human Services under Section 377E (a) of the HIV Organ Policy Equity Act, (Pub. L. 113–51), which amends the Public Health Service Act to require development and

publication of criteria for the conduct of research relating to transplantation of organs from donors infected with human immunodeficiency virus (HIV) into individuals who are infected with HIV before receiving such organ.

These authorities may be redelegated. Exercise of this authority shall be in accordance with established policies, procedures, guidelines, and regulations as prescribed by the Secretary. The Secretary retains the authority to submit reports to Congress and promulgate regulations.

I hereby affirm and ratify any actions taken by the Director, NIH, or his or her subordinates, which involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Dated: November 25, 2014.

Sylvia M. Burwell,

Secretary.

[FR Doc. 2014–28406 Filed 12–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children's Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2015 Through September 30, 2016

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: The Federal Medical Assistance Percentages (FMAP), Enhanced Federal Medical Assistance Percentages (eFMAP), and disaster-recovery FMAP adjustments for Fiscal Year 2016 have been calculated pursuant to the Social Security Act (the Act). These percentages will be effective from October 1, 2015 through September 30, 2016. This notice announces the calculated FMAP rates that the U.S. Department of Health and Human Services (HHS) will use in determining the amount of federal matching for state medical assistance (Medicaid), Temporary Assistance for Needy Families (TANF) Contingency Funds, Child Support Enforcement collections, Child Care Mandatory and Matching Funds of the Child Care and Development Fund, Foster Care Title IV–E Maintenance payments, and Adoption Assistance payments, and the eFMAP rates for the Children's Health Insurance Program (CHIP) expenditures. Table 1 gives figures for each of the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. This notice reminds states of available disaster-recovery FMAP adjustments for qualifying states, and adjustments available for states meeting requirements for negative growth in total state personal income.

This notice also contains the increased eFMAPs for CHIP as authorized under the Patient Protection and Affordable Care Act (Affordable Care Act) for fiscal years 2016 through 2019 (October 1, 2015 through September 30, 2019).

Programs under title XIX of the Act exist in each jurisdiction. Programs under titles I, X, and XIV operate only in Guam and the Virgin Islands, while a program under title XVI (Aid to the Aged, Blind, or Disabled) operates only in Puerto Rico. The percentages in this notice apply to state expenditures for most medical assistance and child health assistance, and assistance payments for certain social services. The Act provides separately for federal matching of administrative costs.

Sections 1905(b) and 1101(a)(8)(B) of the Social Security Act (the Act) require the Secretary of HHS to publish the FMAP rates each year. The Secretary calculates the percentages, using formulas in sections 1905(b) and 1101(a)(8), and calculations by the Department of Commerce of average income per person in each state and for the Nation as a whole. The percentages must fall within the upper and lower limits specified in section 1905(b) of the Act. The percentages for the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands are specified in statute, and thus are not based on the statutory formula that determines the percentages for the 50 states.

Federal Medical Assistance Percentage (FMAP)

Section 1905(b) of the Act specifies the formula for calculating FMAPs as follows:

> " 'Federal medical assistance percentage' for any state shall be 100 per centum less the state percentage; and the state percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such state bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 55 percent. . . ."

Section 4725(b) of the Balanced Budget Act of 1997 amended section 1905(b) to provide that the FMAP for the District of Columbia for purposes of titles XIX and XXI shall be 70 percent. For the District of Columbia, we note under Table 1 that other rates may apply in certain other programs. In addition, we note the rate that applies for Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands in certain other programs pursuant to section 1118 of the Act. The rates for the States, District of Columbia and the territories are displayed in Table 1, Column 1.

Section 1905(y) of the Act, as added by section 2001 of the Patient Protection and Affordable Care Act of 2010 ("Affordable Care Act"), provides for a significant increase in the Federal Medical Assistance Percentage (FMAP) for medical expenditures for individuals determined eligible under the new adult group in the state and who will be considered to be "newly eligible" in 2014, as defined in section 1905(y)(2)(A) of the Act. The FMAP for these newly eligible individuals will be 100 percent for Calendar Years 2014, 2015, and 2016, gradually declining to 90 percent in 2020 where it remains indefinitely. In addition, section 1905(z) of the Act, as added by section 10201 of the Affordable Care Act, provides that states that had expanded substantial coverage to low-income parents and nonpregnant adults without children prior to the enactment of the Affordable Care Act, referred to as "expansion states," shall receive an enhanced FMAP that begins in 2014 for nonpregnant childless adults who may be required to enroll in benchmark coverage. These provisions are discussed in more detail in the Medicaid Eligibility proposed rule published on August 17, 2011 (76 FR 51172) and the final rule published on March 23, 2012 (77 FR 17143).

Adjustments to the FMAP

For purposes of Title XIX (Medicaid) of the Social Security Act, the Federal Medical Assistance Percentage (FMAP), defined in section 1905(b) of the Social Security Act, for each state beginning with fiscal year 2006 is subject to an adjustment pursuant to section 614 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111–3. Section 614 of CHIPRA stipulates that a state's FMAP under Title XIX (Medicaid) must be adjusted in two situations.

In the first situation, if a state experiences positive growth in total personal income and an employer in that state has made a significantly

disproportionate contribution to a pension or insurance fund, the state's FMAP must be adjusted. Employer pension and insurance fund contributions are significantly disproportionate if the increase in contributions exceeds 25 percent of the increase in total personal income in that state. A **Federal Register** Notice with comment period was issued on June 7, 2010 (75 FR 32182) announcing the methodology for calculating this adjustment; a final notice was issued on October 15, 2010 (75 FR 63480).

A second situation arises if a state experiences negative growth in total personal income. Beginning with Fiscal Year 2006, section 614(b)(3) of CHIPRA specifies that certain employer pension or insurance fund contributions shall be disregarded when computing the per capita income used to calculate the FMAP for states with negative growth in total personal income. In that instance, for the purposes of calculating the FMAP, for a calendar year in which a state's total personal income has declined, the portion of an employer pension and insurance fund contribution that exceeds 125 percent of the amount of the employer contribution in the previous calendar year shall be disregarded.

We request that states follow the same methodology to determine potential FMAP adjustments for negative growth in total personal income that HHS employs to make adjustments to the FMAP for states experiencing significantly disproportionate pension or insurance contributions. See also the information described in the January 21, 2014 **Federal Register** notice (79 FR 3385).

This notice does not contain an FY 2016 adjustment for a major statewide disaster for any state because no state's FMAP decreased by at least three percentage points from FY 2015 to FY 2016.

Enhanced Federal Medical Assistance Percentage (eFMAP) for CHIP

Section 2105(b) of the Act specifies the formula for calculating the eFMAP rates as follows:

> The "enhanced FMAP", for a state for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the state increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the state, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a state exceed 85 percent.

In addition, Section 2105(b) of the Social Security Act, as amended by Section 2101 of the Affordable Care Act, increases the eFMAP for states by 23 percentage points:

> . . . during the period that begins on October 1, 2015, and ends on September 30, 2019, the enhanced FMAP determined for a state for a fiscal year (or for any portion of a fiscal year occurring during such period) shall be increased by 23 percentage points, but in no case shall exceed 100 percent.

The eFMAP rates are used in the Children's Health Insurance Program under Title XXI, and in the Medicaid program for certain children for expenditures for medical assistance described in sections 1905(u)(2) and 1905(u)(3) of the Act. There is no specific requirement to publish the eFMAP rates. We include them in this notice for the convenience of the states, and display both the normal eFMAP rates (Table 1, Column 2) and the Affordable Care Act's increased eFMAP rates (Table 1, Column 3) for comparison.

DATES: *Effective Dates:* The percentages listed in Table 1 will be effective for each of the four quarter-year periods beginning October 1, 2015 and ending September 30, 2016.

FOR FURTHER INFORMATION CONTACT: Thomas Musco or Rose Chu, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D—Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, (202) 690–6870.

(Catalog of Federal Domestic Assistance Program Nos. 93.558: TANF Contingency Funds; 93.563: Child Support Enforcement; 93.596: Child Care Mandatory and Matching Funds of the Child Care and Development Fund; 93.658: Foster Care Title IV–E; 93.659: Adoption Assistance; 93.769: Ticket-to-Work and Work Incentives Improvement Act (TWWIIA) Demonstrations to Maintain Independence and Employment; 93.778: Medical Assistance Program; 93.767: Children's Health Insurance Program)

Dated: November 20, 2014.

Sylvia M. Burwell,

Secretary.

TABLE 1—FEDERAL MEDICAL ASSISTANCE PERCENTAGES AND ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 2015–SEPTEMBER 30, 2016 (FISCAL YEAR 2016)

State	(1) Federal medical assistance percentages	(2) Enhanced federal medical assistance percentages for CHIP***	(3) Enhanced federal medical assistance percentages with ACA 23 pt increase for CHIP****
Alabama	69.87	78.91	100.00
Alaska	50.00	65.00	88.00
American Samoa*	55.00	68.50	91.50
Arizona	68.92	78.24	100.00
Arkansas	70.00	79.00	100.00
California	50.00	65.00	88.00
Colorado	50.72	65.50	88.50
Connecticut	50.00	65.00	88.00
Delaware	54.83	68.38	91.38
District of Columbia**	70.00	79.00	100.00
Florida	60.67	72.47	95.47
Georgia	67.55	77.29	100.00
Guam*	55.00	68.50	91.50
Hawaii	53.98	67.79	90.79
Idaho	71.24	79.87	100.00
Illinois	50.89	65.62	88.62
Indiana	66.60	76.62	99.62

TABLE 1—FEDERAL MEDICAL ASSISTANCE PERCENTAGES AND ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 2015–SEPTEMBER 30, 2016 (FISCAL YEAR 2016)—Continued

State	(1) Federal medical assistance percentages	(2) Enhanced federal medical assistance percentages for CHIP***	(3) Enhanced federal medical assistance percentages with ACA 23 pt increase for CHIP****
Iowa	54.91	68.44	91.44
Kansas	55.96	69.17	92.17
Kentucky	70.32	79.22	100.00
Louisiana	62.21	73.55	96.55
Maine	62.67	73.87	96.87
Maryland	50.00	65.00	88.00
Massachusetts	50.00	65.00	88.00
Michigan	65.60	75.92	98.92
Minnesota	50.00	65.00	88.00
Mississippi	74.17	81.92	100.00
Missouri	63.28	74.30	97.30
Montana	65.24	75.67	98.67
Nebraska	51.16	65.81	88.81
Nevada	64.93	75.45	98.45
New Hampshire	50.00	65.00	88.00
New Jersey	50.00	65.00	88.00
New Mexico	70.37	79.26	100.00
New York	50.00	65.00	88.00
North Carolina	66.24	76.37	99.37
North Dakota	50.00	65.00	88.00
Northern Mariana Islands*	55.00	68.50	91.50
Ohio	62.47	73.73	96.73
Oklahoma	60.99	72.69	95.69
Oregon	64.38	75.07	98.07
Pennsylvania	52.01	66.41	89.41
Puerto Rico*	55.00	68.50	91.50
Rhode Island	50.42	65.29	88.29
South Carolina	71.08	79.76	100.00
South Dakota	51.61	66.13	89.13
Tennessee	65.05	75.54	98.54
Texas	57.13	69.99	92.99
Utah	70.24	79.17	100.00
Vermont	53.90	67.73	90.73
Virgin Islands*	55.00	68.50	91.50
Virginia	50.00	65.00	88.00
Washington	50.00	65.00	88.00
West Virginia	71.42	79.99	100.00
Wisconsin	58.23	70.76	93.76
Wyoming	50.00	65.00	88.00

* For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI will be 75 per centum.
** The values for the District of Columbia in the table were set for the state plan under titles XIX and XXI and for capitation payments and DSH allotments under those titles. For other purposes, the percentage for DC is 50.00, unless otherwise specified by law.
*** These eFMAP rates for CHIP are listed here for illustrative purposes only. They are superseded by the ACA 23 percentage point increase in column 3.
**** Section 2101(a) of the Affordable Care Act amended Section 2105(b) of the Social Security Act to increase the enhanced FMAP for states by 23 percentage points in CHIP, but not to exceed 100 percent, for the period that begins on October 1, 2015 and ends on September 30, 2019 (fiscal years 2016 through 2018).
Note: Both the normal eFMAP rates and the Affordable Care Act's increased eFMAP rates are displayed for comparison.

[FR Doc. 2014–28398 Filed 11–28–14; 11:15 am]
BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Advisory Committee on Children and Disasters

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services is hereby giving notice that the National Advisory Committee on Children and Disasters (NACCD) will be holding a meeting via teleconference. The meeting is open to the public.

DATES: The December 18, 2014, NACCD meeting is scheduled from 1:00 to 2:00 p.m. EST. The agenda is subject to change as priorities dictate. Please check the NACCD Web site, located at *www.phe.gov/naccd* for the most up-to-date information on the meeting.

ADDRESSES: To attend the meeting via teleconference, call toll-free 888–843–7185 pass-code 8233167. Please call 15 minutes prior to the beginning of the conference call to facilitate attendance. Pre-registration is required for public attendance. Individuals who wish to

attend the meeting should submit an inquiry via the NACCD Contact Form located at *www.phe.gov/NACCDComments.*

FOR FURTHER INFORMATION CONTACT: Please submit an inquiry via the NACCD Contact Form located at *www.phe.gov/NACCDComments.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), and section 2811A of the Public Health Service (PHS) Act (42 U.S.C. 300hh–10a), as added by section 103 of the Pandemic and All Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5), the HHS Secretary, in consultation with the Secretary of the U.S. Department of Homeland Security, established the National Advisory Committee on Children and Disasters (NACCD). The purpose of the NACCD is to provide advice and consultation to the HHS Secretary with respect to the medical and public health needs of children in relation to disasters. The Office of the Assistant Secretary for Preparedness and Response (ASPR) provides management and administrative oversight to support the activities of the NACCD.

Background: This public meeting will be dedicated to the members voting to approve two task letters that the NACCD Chair received from the Assistant Secretary for Preparedness and Response.

Availability of Materials: The meeting agenda and materials will be posted on the NACCD Web site at: *www.phe.gov/naccd* prior to the meeting.

Procedures for Providing Public Input: All written comments must be received prior to December 17, 2014. Please submit comments via the NACCD Contact Form located at *www.phe.gov/NACCDComments.* Individuals who plan to attend and need special assistance should submit a request via the NACCD Contact Form located at *www.phe.gov/NACCDComments.*

Dated: November 25, 2014

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2014–28337 Filed 12–1–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–15FY]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy A. Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

State Health Department Access to Electronic Health Record Data from Healthcare Facilities during a Healthcare-Associated Infection Outbreak: A Retrospective Assessment—New—National Center for Emerging and Zoonotic Infections Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Two years ago, contaminated steroid injections caused the largest fungal meningitis outbreak in the United States, affecting 20 states and resulting in 751 infections and 64 deaths. The subsequent healthcare-associated infection (HAI) outbreak response required significant collaboration between healthcare providers and facilities and public health departments (HDs). Following the outbreak response, HDs reported that various challenges with access to patient health information in electronic health records (EHRs) hindered the efficient and rapid identification of potential fungal meningitis cases in healthcare facilities. The fungal meningitis outbreak experience highlights the need to better understand the landscape of granting and using access to EHRs for outbreak investigations.

The Division of Healthcare Quality Promotion, the Office for State, Tribal, Local and Territorial Support, and the Office of Public Health Scientific Services at the Centers for Disease Control and Prevention (CDC) are partnering with Association of State and Territorial Health Officials and The Keystone Center to evaluate the challenges surrounding HDs access to EHRs in healthcare facilities' during an HAI outbreak investigation. The evaluation seeks to compile information across states from experts in the public and private sector to assess experiences, identify issues, and seek recommendations for improving HDs access to EHRs during future outbreaks. In addition to a study report, the insights from healthcare facility staff will be used to build a toolkit to help state HDs understand the perspectives and needs of the healthcare facilities related to EHR access. The toolkit will provide perceived barriers, recommendations to overcome those barriers, best practices that support EHR access, and practical tools such as templates, memorandums of understanding (MOUs), and policies. The toolkit will be distributed to HDs, healthcare facilities, and other

stakeholders to support awareness and strengthen relationships between public health and clinical care.

These activities will facilitate the quick and efficient identification of cases in future outbreaks and protect the health and safety of patients.

This request corresponds with an initial ongoing data collection, State Health Department Access to Electronic Health Record Data during an Outbreak: A Retrospective Assessment, which involves interviews with four types of Health Department staff: Healthcare-associated infection coordinator, epidemiologist, legal counsel, and informatics director (OMB Control Number 0920–0879, approved on 04/24/2014). We anticipate that the Phase I data analysis will be completed in late 2014.

For Phase II of this study, we will be requesting participation from hospital and clinic staff in their official capacities across the same 15 states included in the Phase I request. The states chosen for Phase I and Phase II data collections are: Florida, Indiana, Kansas, Maryland, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Tennessee, Texas, and Virginia. Data will be collected from 150 hospital and clinic staff in their official capacities using one 30-minute telephone interview per person and limiting interviews to two hospitals and two clinics per state. Hospital participants include: Infection preventionists, informatics directors, and others as referred. Clinic participants include: Clinic directors and others as referred.

The focus of this OMB request is to conduct interviews with 150 healthcare facilities' staff, hospitals and clinics, in their official capacities who have been asked by HDs to provide access to their EHRs during an HAI outbreak investigation. In hospitals, the evaluation team will be conducting interviews with staff members serving in one of three roles: Infection preventionist, informatics director, and other as referred (*e.g.* privacy officer, risk management, etc.). In clinics, the evaluation team will be conducting interviews with the clinic director, and other as referred (*e.g.* patient records manager, etc.)

The maximum estimates for burden hours are derived from interview guide pilot testing and data collection with HDs during Phase I data collection, in which interviews took 27 minutes. The data to be collected do not involve questions of a personal or sensitive nature and should have no impact on the individual's privacy.

There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Infection Preventionist	30	1		15
Informatics Director	30	1		15
Other as Referred	30	1	30/60	15
Clinic Director	30			15
Other as referred by Clinic Director	30	1		15
Totals	150	1		75

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–28236 Filed 12–1–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–0821]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy A. Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Quarantine Station Illness Response Forms: Airline, Maritime, and Land/Border Crossing (OMB Control No. 0920–0821, expiration 08/31/2015)—Revision—National Center for Emerging and Zoonotic Infectious Diseases,

Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a revision to a currently approved information collection, Quarantine Station Illness Response Forms: Airline, Maritime, and Land/Border Crossing. This revision seeks to incorporate the changes that resulted from activities undertaken during the response to Ebola. These changes include two major components, both of which have been given previous emergency clearance by OMB, with an expiration date of April 30, 2015. As a part of this revision, CDC is requesting the full three year approval and 12 months of burden for the following:

The incorporation of a two public health screening forms that are currently used to assess risk for Ebola in travelers coming to the United States from countries experiencing widespread transmission of the disease. These forms are the United States Traveler Health Declaration and a completely revised Ebola Risk Assessment For Travelers From Ebola Outbreak-Affected Countries form, each given approval from OMB under OMB Control No 0920–1031. The additional burden requested for the electronic and hard copies of the English, hard copy French, and hard copy Arabic versions of the health declaration, and the English and French hard copy versions of the risk assessment form, is 16,965 hours.

In this revision, CDC is maintaining the ability to use the Ebola Risk Assessment for Travelers from Outbreak-affected Countries form in the event that a traveler is identified as ill on a U.S.-bound flight prior to arrival. In the no material or non-substantive change to a currently approved collection granted by OMB on 9/18/2014, CDC requested 100 respondents and 5 hours of burden. Because the risk assessment form is more comprehensive, it requires more time for traveler to complete the assessment. CDC is requesting an additional 20 hours of burden for the purpose of assessing ill travelers, for a total of 25 hours of burden. No additional respondents are requested.

CDC is also requesting the incorporation of a telephonic, automated survey administered either through Interactive Voice Response (IVR) phone system which asks travelers if they have developed a fever or any other symptoms potentially indicative of Ebola exposure (OMB Control No 0920–1034). This system is used to assist states in actively monitoring those travelers from Ebola affected countries for 21 days after arrival. The additional burden requested for the use of the IVR system is 91,350 hours.

No revisions are requested to the Air Travel, Maritime Conveyance or Land Travel Illness and Death Investigation forms or burden associated with these information collections. The current burden associated with these forms is 314 hours.

This revision incorporates the burden estimates provided for the emergency information collection 0920–1031 and 0920–1034. The total additional burden requested for this revision is 133,110 respondents and 108,335 burden hours. The estimated total burden for OMB Control Number 0920–0821 is 136,968 respondents and 108,654 burden hours. There is no burden to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondent	Form	Number of respondents	Number of responses per respondent	Average burden per response (in minutes)	Total burden hours
Traveler	Airline Travel Illness or Death Investigation Form.	1626	1	5/60	136
Traveler	Maritime Conveyance Illness or Death Investigation Form.	1873	1	5/60	156
Traveler	Land Travel Illness or Death Investigation Form.	259	1	5/60	22
Traveler	United States Travel Health Declaration (English: Hard Copy, fillable PDF, electronic portal).	45,325	1	15/60	11,331
Traveler	United States Travel Health Declaration (French hard copy).	19,625	1	15/60	4906
Traveler	United States Travel Health Declaration (Arabic hard copy).	300	1	15/60	75
Traveler	Ebola Risk Assessment for Travelers from Outbreak-affected Countries (English hard copy).	1815	1	15/60	454
Traveler	Ebola Risk Assessment for Travelers from Outbreak-affected Countries (French hard copy).	783	1	15/60	196
Traveler	Ebola Risk Assessment for Travelers from Outbreak-affected Countries (Arabic hard copy).	12	1	15/60	3
Traveler	Ebola Risk Assessment for Travelers from Outbreak-affected Countries (Ill traveler interview).	100	1	15/60	25
Traveler	IVR Active Monitoring Survey (English: Recorded).	45,625	21	4/60	63,875
Traveler	IVR Active Monitoring Survey (French: Recorded).	19,625	21	4/60	27,475
Total		136,968			108,654

Leroy A. Richardson
Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–28232 Filed 12–1–14; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–0214]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 30 days of this notice.

Proposed Project

National Health Interview Survey (NHIS) (OMB No. 0920–0214, expires 03/31/2016)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect data on the extent and nature of illness and disability of the population of the United States. The annual National Health Interview Survey is a major source of general statistics on the health of the U.S. population and has been in the field continuously since 1957. Clearance is sought for three years, to collect data for 2015, 2016, and 2017.

This voluntary and confidential household-based survey collects demographic and health-related information on a nationally representative sample of persons and households throughout the country. Personal identification information is requested from survey respondents to facilitate linkage of survey data with health-related administrative and other records. Each year we collect information from approximately 55,000 households, which contain about 137,500 individuals.

Information is collected using computer assisted personal interviews (CAPI). A core set of data is collected each year that remains largely unchanged while sponsored supplements vary from year to year. The core set includes socio-demographic characteristics, health status, health care services, and health behaviors. For 2015, supplemental questions will be cycled in pertaining to cancer control, epilepsy, and inflammatory bowel disease and occupational health.

Supplemental topics that continue or are enhanced from 2014 will be related to food security, heart disease and stroke, children's mental health, disability and functioning, sexual orientation, smokeless tobacco and e-cigarettes, immunizations, and computer use. Questions on the Affordable Care Act from 2014 have been reduced in number in 2015. In addition, a follow-back survey will be conducted on previous NHIS respondents. The follow-back survey will focus on topics related to the Affordable Care Act including health care access and use, and health insurance coverage and will include multiple modes of contacting respondents.

To improve the analytic utility of NHIS data, minority populations are oversampled annually. In 2015, sample augmentation procedures used in previous years will continue to increase the number of African American, Hispanic, and Asian American persons.

In accordance with the 1995 initiative to increase the integration of surveys within the DHHS, respondents to the NHIS serve as the sampling frame for the Medical Expenditure Panel Survey conducted by the Agency for Healthcare Research and Quality. The NHIS has long been used by government, academic, and private researchers to evaluate both general health and specific issues, such as cancer, diabetes, and access to health care. It is a leading source of data for the Congressionally mandated "Health US" and related publications, as well as the single most important source of statistics to track progress toward the National Health Promotion and Disease Prevention Objectives, "Healthy People 2020."

The total annualized burden hours have increased by 3,333 hours to 48,833 hours. There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Adult Family Member	Screener Questionnaire	10,000	1	5/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Adult Family Member	Family Core	45,000	1	23/60
Sample Adult	Adult Core	36,000	1	15/60
Adult Family Member	Child Core	14,000	1	10/60
Adult Family Member	Supplements	45,000	1	20/60
Adult Family Member	Followback	12,000	1	20/60
Adult Family Member	Reinterview Survey	5,000	1	5/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–28233 Filed 12–1–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2014–0012]

Recommendations for Providers Counseling Male Patients and Parents Regarding Male Circumcision and the Prevention of HIV Infection, STIs, and Other Health Outcomes

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), is seeking public comment on draft recommendations for health care providers who deliver information and counseling about elective male circumcision and the prevention of HIV and other adverse health outcomes to male patients and parents in the United States. The draft recommendations include information about the health benefits and risks of elective male circumcision performed by health care providers.

DATES: Written comments must be received on or before January 16, 2015.

ADDRESSES: You may submit comments identified by Docket Number CDC–2014–0012 by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Division of HIV/AIDS Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop D–21, Atlanta, Georgia 30333. Attn: Male Circumcision Recommendations.

Instructions: All submissions received must include the agency name and docket number or RIN. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. CDC will not consider or post any comments that contain vulgar or offensive language, threats, personal accusations, and/or statements intended to promote commercial products or services, or images. Additionally, CDC will not post any pictures that are submitted. For access to the docket to read the recommendations, background document, or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Division of HIV/AIDS, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS D–21, Atlanta, Georgia 30329, phone: 404–639–5200. Email: *circumcision@cdc.gov.*

SUPPLEMENTARY INFORMATION: These recommendations are intended to assist health care providers in the United States who are counseling men and parents of male infants, children and adolescents in decision making about male circumcision. Such decision making is made in the context of not only health considerations, but also other social, cultural, ethical, and religious factors. Although data have been accumulating about infant male circumcision for many years, clinical trials conducted between 2005–2010 have demonstrated safety and significant efficacy of voluntary adult male circumcision performed by clinicians for reducing the risk of acquisition of human immunodeficiency virus (HIV) by a male during penile-vaginal sex ("heterosexual sex"). Three randomized clinical trials showed that adult male circumcision reduced HIV infection risk by 50–60% over time. These trials also found that adult circumcision reduced the risk of men acquiring two common sexually transmitted infections (STIs), herpes simplex virus type-2 (HSV–2) and types of human papilloma virus (HPV) that can cause penile and other anogenital cancers, by 30%. Since the release of these trial data, various organizations have updated their recommendations about adult male and infant male circumcision.

In addition to obtaining public comment on the draft Recommendations, CDC considers this document to be important information as defined by the Office of Management and Budget's (OMB) 2004 Information Quality Bulletin for Peer Review and, therefore, subject to peer review. CDC will share the summary of public comments with external experts who conduct a peer review of the evidence on this topic. Their review will include an evaluation of completeness, accuracy, interpretation, and generalizability of the evidence to the United States and whether the evidence is sufficient to support the draft counseling recommendations.

After considering all public comment and the results of the peer review, CDC will publish a notice in the **Federal Register** announcing the final recommendations.

Dated: November 19, 2014.

Ron A. Otten,

Acting Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2014–27814 Filed 11–28–14; 4:15 pm]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0194]

Infusion Pumps Total Product Life Cycle; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: Food and Drug Administration (FDA) is announcing the availability of the final guidance entitled, "Infusion Pumps Total Product Life Cycle; Guidance for Industry and FDA Staff." The recommendations in this guidance are intended to improve the safety and effectiveness of these devices. This guidance also describes considerations in preparing premarket submissions for infusion pumps and identifies device features that manufacturers should address throughout the total product life cycle.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled "Infusion Pumps Total Product Life Cycle; Guidance for Industry and FDA Staff" to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Alan Stevens, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2561, Silver Spring, MD 20993–0002, 301–796–6294.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has evaluated a broad spectrum of infusion pumps across manufacturers and has encountered common problems with device software, human factors, reliability, and manufacturing. Based on an evaluation of reported adverse events and recalls, FDA believes that many injuries and adverse events may be avoided by improving the design verification and validation processes for infusion pump devices.

The most frequently reported infusion pump device problems are: Software error messages, human factors (which include, but are not limited to, use error), broken components, battery failure, alarm failure, over-infusion, and under-infusion. Subsequent analyses revealed that many of these design problems could be corrected during the design validation and verification processes.

The Agency believes that this guidance provides recommendations that will help mitigate observed risk and reduce potential risk associated with infusion pumps. One method of improving the safety of infusion pumps is the inclusion of safety assurance cases as part of the premarket submissions for new, changed, or modified infusion pumps submitted by device manufacturers. This guidance explains the Agency's current thinking and provides recommendations on information to submit through the safety assurance case framework and postmarket surveillance of infusion pumps.

In April 2010, the Agency issued the special control draft guidance entitled "Draft Guidance for Industry and FDA Staff: Total Product Life Cycle: Infusion Pump—Premarket Notification [510(k)] Submissions" (Ref. 1). The Agency has reviewed the comments submitted for the 2010 guidance and has incorporated most of the recommendations in this final guidance.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance represents the Agency's current thinking on infusion pumps. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov*. Persons unable to download an electronic copy of "Total Product Life Cycle: Infusion Pumps; Guidance for Industry and FDA Staff" may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1780 to identify the guidance you are requesting.

IV. Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This guidance also refers to previously approved information collections found in FDA regulations. The collections of information in 21 CFR part 803 are approved under OMB control number 0910–0437; the collections of information in 21 CFR part 801 are approved under OMB control number 0910–0485; the collections of information in 21 CFR part 812 are approved under OMB control number 0910–0078; the collections of information in 21 CFR part 807, subpart E are approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820 are approved under OMB control number 0910–0073; the collections of information in 21 CFR part 822 are under OMB control number 0910–0449; the collections of information in 21 CFR 56.115 are approved under OMB control number 0910–0130; and the collections of information for safety assurance cases are approved under OMB control number 0910–0766.

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

VI. Reference

The following reference has been placed on display in the Division of Dockets Management (see **ADDRESSES**), and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov.* (FDA has verified the Web site address in this reference section, but we are not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

1. The FDA guidance entitled "Draft Guidance for Industry and FDA Staff: Total Product Life Cycle: Infusion Pump—Premarket Notification [510(k)] Submissions," available at *http://www.fda.gov/medicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm206153.htm.*

Dated: *November 25, 2014.*

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–28267 Filed 12–1–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0295]

Guidance for Industry on Scale-Up Post-Approval Changes: Manufacturing Equipment Addendum; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a scale-up and post-approval changes (SUPAC) guidance for industry entitled "SUPAC: Manufacturing Equipment Addendum." This replaces the draft guidance of the same name that combined and superseded "SUPAC IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms: Manufacturing Equipment Addendum," published on January 1, 1999; and "SUPAC–SS: Nonsterile Semisolid Dosage Forms; Manufacturing Equipment Addendum," published as a draft on December 1, 1998. FDA revised the draft manufacturing equipment addenda to remove the equipment examples and to clarify the types of processes being referenced.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Akm Khairuzzaman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3886.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a SUPAC guidance for industry entitled "SUPAC: Manufacturing Equipment Addendum." This guidance replaces the draft guidance of the same name that superseded the following guidances for industry: (1) "SUPAC IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms: Manufacturing Equipment Addendum," published on January 1, 1999, and (2) "SUPAC–SS: Nonsterile Semisolid Dosage Forms; Manufacturing Equipment Addendum, "published as draft on December 1, 1998. When published, these guidances included tables that listed specific equipment that were misinterpreted as a list of FDA required equipment. In addition, FDA is concerned that the equipment addenda may no longer reflect current practices and may be limiting, instead of encouraging, manufacturers to continually evaluate and update practices. FDA has removed the tables listing specific manufacturing equipment from these guidances and combined them into a single addendum. FDA has also made some changes to clarify the types of processes being referenced.

This guidance should be used with the following guidances for industry to determine what documentation should be submitted to FDA regarding equipment changes: (1) "SUPAC–IR: Immediate Release Solid Oral Dosage Forms—Scale-Up and Post-Approval Changes: Chemistry, Manufacturing and Controls, In Vitro Dissolution Testing, and In Vivo Bioequivalence Documentation," (2) "SUPAC–MR: Modified Release Solid Oral Dosage Forms Scale-Up and Post-Approval Changes: Chemistry, Manufacturing and Controls; In Vitro Dissolution Testing and In Vivo Bioequivalence Documentation," and (3) "SUPAC–SS: Nonsterile Semisolid Dosage Forms, Scale-Up and Post Approval Changes: Chemistry Manufacturing and Controls; In Vitro Release Testing and In Vivo Bioequivalence Documentation."

As part of a greater effort, FDA is thoroughly reviewing the SUPAC guidance series to determine how these guidances fit with current manufacturing practices, including, but not limited to, risk-based assessment approaches and quality by design principles. This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance represents the Agency's current thinking on manufacturing equipment. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: *November 25, 2014.*

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–28256 Filed 12–1–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0168]

Recommendations for Labeling Medical Products To Inform Users That the Product or Product Container Is Not Made With Natural Rubber Latex; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled "Recommendations for Labeling Medical Products to Inform Users That the Product or Product Container Is Not Made With Natural Rubber Latex; Guidance for Industry and Food and Drug Administration Staff." The purpose of this guidance is to make recommendations on the appropriate language to include in the labeling of a medical product to convey that natural rubber latex was not used as a material in the manufacture of the product, product container, and/or packaging. FDA is concerned that statements submitted for inclusion in medical product labeling, such as "latex-free," "does not contain natural rubber latex," or "does not contain latex" are not accurate because it is not possible to reliably assure that there is a complete absence of the allergens associated with hypersensitivity reactions to natural rubber latex in the medical product.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled "Recommendations for Labeling Medical Products to Inform Users That the Product or Product Container Is Not Made With Natural Rubber Latex; Guidance for Industry and Food and Drug Administration Staff" to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Michael T. Bailey, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G120, Silver Spring, MD 20993–0002, 301–796–6530, email: *Michael.Bailey@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Contact with medical products containing natural rubber has been associated with anaphylaxis in individuals allergic to natural rubber latex proteins. Therefore, all medical devices and device packaging composed of or containing natural rubber latex, dry natural rubber, and synthetic latex or synthetic rubber that contains natural rubber in the formulation are required to include a specific caution statement regarding the presence of these materials (*e.g.*, "Caution: This Product Contains Natural Rubber Latex Which May Cause Allergic Reactions") in device labeling (21 CFR 801.437). The biological products regulations require that the package label or package insert declare the presence of known sensitizing substances, but do not specifically mention natural rubber latex (21 CFR 610.61(l)). Specific regulations for labeling of natural rubber latex content in medical products or their containers and/or packaging do not exist for drugs or veterinary products.

At this time, there are no regulations requiring the labeling of a medical product to state that natural rubber latex was not used as a material in the manufacture of a medical product, medical product container, or medical product packaging. However, some manufacturers have included the promotional statements "latex-free" or "does not contain latex" in medical product labeling to inform users that natural rubber latex, dry natural rubber, or synthetic derivatives of natural rubber latex were not used. FDA believes that these labeling statements are not sufficiently specific, not necessarily scientifically accurate, and may be misunderstood or applied too widely and, therefore, are inappropriate to be included in medical product labeling. Use of these terms may give users allergic to natural rubber latex a false sense of security when using a medical product. This guidance document provides recommendations for scientifically accurate labeling that can be used by manufacturers who wish to convey that natural rubber latex was not used as a material in the manufacture of a medical product, medical product container, or medical product packaging.

The draft of this guidance was made available in the **Federal Register** on March 11, 2013 (78 FR 15370). The comment period closed on June 10, 2013. A number of comments were received from the public, all of which the Agency considered carefully as it finalized the guidance and made appropriate changes. Any changes to the guidance were minor and made to clarify statements in the draft guidance.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on labeling medical products to inform users that a product, product container, or product packaging was not made with natural rubber latex. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov*. Persons unable to download an electronic copy of "Recommendations for Labeling Medical Products to Inform Users That the Product or Product Container Is Not Made With Natural Rubber Latex; Guidance for Industry and Food and Drug Administration Staff" may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1768 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to currently approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (the PRA). The collections of information in 21 CFR part 801 are approved under OMB control number 0910–0485 and the collections of information in 21 CFR part 610, subpart G, are approved under OMB control number 0910–0338.

The labeling provisions recommended in this guidance are not subject to review by OMB because they do not constitute a "collection of information" under the PRA. Rather, the recommended labeling is a "public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public" (5 CFR 1320.3(c)(2)).

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: November 25, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–28265 Filed 12–1–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1936]

Establishment of a Public Docket; Electronic Cigarettes and the Public Health Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of docket; request for data, information, and comments.

SUMMARY: The Food and Drug Administration (FDA), Center for Tobacco Products, is establishing a public docket in conjunction with the first public workshop to gather scientific information about electronic cigarettes (e-cigarettes) as announced in Docket No. FDA–2014–N–0001–0079. Regardless of attendance at the public workshop, interested parties are invited to submit comments, supported by research and data, regarding electronic cigarettes and the public health.

DATES: Submit written or electronic comments by April 15, 2015.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Caryn Cohen, Office of Science, Center for Tobacco Products, Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 1–877–287–1373, email: *workshop.CTPOS@fda.hhs.gov.*

I. Background

On September 17, 2014, FDA announced a public workshop to gather information about e-cigarettes and the public health (Electronic Cigarettes and the Public Health; Public Workshop; 79 FR 55815, September 17, 2014, Docket No. FDA–2014–N–0001). The focus of the workshop is product science (specifically device designs and characteristics, and e-liquid and aerosol constituents), product packaging, constituent labeling, and environmental impact. FDA intends to follow the first workshop with two additional e-cigarette workshops; one on individual health effects and one on population health effects. As stated in the **Federal Register** notice of the public workshop, the workshops are not intended to inform the Agency's deeming rulemaking. The workshops are intended to better inform FDA about these products. Should the Agency move forward as proposed to regulate e-cigarettes, additional information about the products would assist the Agency in carrying out its responsibilities under the law.

II. Submission of Comments

Regardless of attendance at the public workshop, interested parties are invited to submit comments, supported by research and data, regarding e-cigarettes and the public health. Information related to workshop presentations and discussion topics, including specific questions to be addressed at the workshop, can be found at *http://www.fda.gov/TobaccoProducts/NewsEvents/ucm238308.htm.*

Interested persons may submit either electronic comments to this docket at *http://www.regulations.gov or* written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: November 25, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–28261 Filed 12–1–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than January 2, 2015.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Data System for Organ Procurement and Transplantation Network OMB No. 0915–0157—Revision.

Abstract: Section 372 of the Public Health Service (PHS) Act requires that the Secretary, by contract, provide for the establishment and operation of an Organ Procurement and Transplantation Network (OPTN). This is a request for revisions to current OPTN data collection forms associated with donor organ procurement and an individual's clinical characteristics at the time of registration, transplant, and follow-up after the transplant.

Need and Proposed Use of the Information: Data for the OPTN data system are collected from transplant hospitals, organ procurement organizations, and tissue-typing laboratories. The information is used to indicate the disease severity of transplant candidates, to monitor compliance of member organizations with OPTN rules and requirements, and to report periodically on the clinical and scientific status of organ donation and transplantation in this country. Data are used to develop transplant, donation and allocation policies, to determine whether institutional members are complying with policy, to determine member-specific performance, to ensure patient safety, and to fulfill the requirements of the OPTN Final Rule. The practical utility of the data collection is further enhanced by requirements that the OPTN data must be made available, consistent with applicable laws, for use by OPTN members, the Scientific Registry of Transplant Recipients, the Department of Health and Human Services, and members of the public for evaluation, research, patient information, and other important purposes.

Likely Respondents: Transplant programs, organ procurement organizations, histocompatibility laboratories, medical and scientific organizations, and public organizations.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Deceased Donor Registration	58	158.2	9174	1.1	10091.4
Living Donor Registration	296	20.2	5984	1.8	10771.2
Living Donor Follow-up	296	59.5	17610	1.3	22893.0
Donor Histocompatibility	154	94.8	14598	0.2	2919.6
Recipient Histocompatibility	154	170.1	26199	0.4	10479.6
Heart Candidate Registration	131	30.5	3991	0.9	3591.9
Heart Recipient Registration	131	19.3	2525	1.4	3535.0
Heart Follow Up (6 Month)	131	17.0	2229	0.4	891.6
Heart Follow Up (1–5 Year)	131	73.9	9683	0.9	8714.7
Heart Follow Up (Post 5 Year)	131	115.2	15091	0.5	7545.5
Heart Post-Transplant Malignancy Form	131	11.0	1447	0.9	1302.3
Lung Candidate Registration	65	39.0	2534	0.9	2280.6
Lung Recipient Registration	65	29.6	1923	1.4	2692.2
Lung Follow Up (6 Month)	65	25.8	1677	0.5	838.5
Lung Follow Up (1–5 Year)	65	97.9	6364	1.1	7000.4
Lung Follow Up (Post 5 Year)	65	64.6	4201	0.6	2520.6
Lung Post-Transplant Malignancy Form	65	1.5	99	0.4	39.6
Heart/Lung Candidate Registration	63	0.7	46	1.1	50.6
Heart/Lung Recipient Registration	63	0.3	21	1.4	29.4
Heart/Lung Follow Up (6 Month)	63	0.3	20	0.8	16.0
Heart/Lung Follow Up (1–5 Year)	63	1.5	97	1.1	106.7
Heart/Lung Follow Up (Post 5 Year)	63	3.1	194	0.6	116.4
Heart/Lung Post-Transplant Malignancy Form	63	0.2	12	0.4	4.8
Liver Candidate Registration	136	88.6	12048	0.8	9638.4
Liver Recipient Registration	136	47.5	6457	1.3	8394.1
Liver Follow-up (6 Month–5 Year)	136	229.4	31194	1.0	31194.0
Liver Follow-up (Post 5 Year)	136	254.6	34622	0.5	17311.0
Liver Recipient Explant Pathology Form	136	12.2	1665	0.6	999.0
Liver Post-Transplant Malignancy	136	13.1	1786	0.8	1428.8
Intestine Candidate Registration	41	4.4	182	1.3	236.6
Intestine Recipient Registration	41	2.7	109	1.8	196.2
Intestine Follow Up (6 Month–5 Year)	41	13.3	547	1.5	820.5
Intestine Follow Up (Post 5 Year)	41	13.5	553	0.4	221.2
Intestine Post-Transplant Malignancy Form	41	0.6	25	1.0	25.0
Kidney Candidate Registration	235	161.2	37880	0.8	30304.0
Kidney Recipient Registration	235	71.9	16904	1.3	21975.2
Kidney Follow-Up (6 Month–5 Year)	235	376.3	88422	0.9	79579.8
Kidney Follow-up (Post 5 Year)	235	343.7	80770	0.5	40385.0
Kidney Post-Transplant Malignancy Form	235	17.9	4213	0.8	3370.4
Pancreas Candidate Registration	135	3.5	479	0.9	431.1
Pancreas Recipient Registration	135	1.9	259	1.1	284.9

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS—Continued

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Pancreas Follow-up (6 Month–5 Year)	135	10.4	1398	1.0	1398.0
Pancreas Follow-up (Post 5 Year)	135	13.4	1804	0.5	902.0
Pancreas Post-Transplant Malignancy Form	135	0.8	108	0.6	64.8
Kidney/Pancreas Candidate Registration	13	98.5	1280	0.9	1152
Kidney/Pancreas Recipient Registration	135	5.6	760	1.1	836.0
Kidney/Pancreas Follow-up (6 Month–5 Year)	135	33.4	4509	1.0	4509.0
Kidney/Pancreas Follow-up (Post 5 Year)	135	47.9	6465	0.6	3879.0
Kidney/Pancreas Post-Transplant Malignancy Form	135	1.6	211	0.4	84.4
Vascular Composite Allograft Candidate Registration	16	0.9	15	0.4	6.0
Vascular Composite Allograft Recipient Registration	16	0.9	15	1.3	19.5
Vascular Composite Allograft Recipient Follow Up	16	0.9	15	1.0	15.0
Total	*456		460414		358092.5

*Total number of OPTN member institutions as of 09/9/2014. Number of respondents for transplant candidate or recipient forms based on number of organ specific programs associated with each form.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–28343 Filed 12–1–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than January 2, 2015.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: The Health Professions Student Loan (HPSL) and Nursing Student Loan (NSL) Programs: Deferment-HRSA Form 519 and AOR–HRSA Form 501, OMB No. 0915–0044-Extension

Abstract: The HPSL Program, as authorized by Public Health Service (PHS) Act sections 721–722, and 725–735, provides long-term, low-interest loans to students attending schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, and pharmacy. The NSL program as authorized by PHS Act sections 835–842, provides long-term, low-interest loans to students who attend eligible schools of nursing in programs leading to a diploma in nursing, including an associate degree, a baccalaureate degree, or graduate degree in nursing.

Need and Proposed Use of the Information: Participating HPSL and NSL schools are responsible for determining eligibility of applicants, making loans, and collecting monies owed by borrowers on their outstanding loans. The Deferment Form (Deferment-HRSA Form 519) provides the schools with documentation of a borrower's deferment status, as detailed for the HPSL program under 42 CFR 57.210 and for NSL under 42 CFR 57.310. The Annual Operating Report (AOR–HRSA Form 501) provides the U.S. Department of Health and Human Services with information from participating schools (including schools that are no longer disbursing loans but are required to report and maintain program records, student records, and repayment records until all student loans are repaid in full and all monies due to the federal government are returned) relating to HPSL and NSL program operations and financial activities.

Likely Respondents: Financial Aid Directors working at institutions participating in the HPSL and NSL Programs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form No.	Number of respondents	Respnses per respondent	Total annual response	Hours per response	Total burden hours
Deferment HRSA–519	4,900	1	4,900	0.435	2,132
AOR HRSA–501	784	1	784	21.000	16,464
Total Burden	5,684		5,684		18,596

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–28345 Filed 12–1–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Advisory Committee on Interdisciplinary, Community-Based LInkages; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL).

Date and Time: December 10, 2014 (10:00 a.m.–4:30 p.m.).

Place: Webinar and Conference Call Format.

Status: The meeting will be open to the public.

Purpose: The members of the ACICBL will continue discussions to develop the legislatively mandated 14th Annual Report to the Secretary of Health and Human Services and Congress. The Committee members have chosen the working topic: *Rethinking Complex Care: Preparing the Health Care Workforce to Foster Person-Centered Care.* The members will discuss the initial 14th Annual Report draft. The report will include the following topics: Chronic Care Management, Chronic Disease Prevention, Social Determinants of Health, Health Literacy, Cultural Competency, Shared Decision Making, Family Engagement and Empowerment, Interprofessional Education, and Evaluations of Teaching Strategies for Person Centered Care.

AGENDA: The ACICBL agenda includes an opportunity for members to discuss the 14th Annual Report draft and provide comments and edits to further develop the report. The agenda will be available 2 days prior to the meeting on the Heath Resources and Services Administration's (HRSA) ACICBL Web site at *http://www.hrsa.gov/advisorycommittees/bhpradvisory/acicbl/acicbl.html.* Agenda items are subject to change as priorities dictate.

Public Comment: Members of the public will have the opportunity to provide comments. Requests to make oral comments or provide written comments to the ACICBL should be sent to Dr. Joan Weiss, Designated Federal Official (DFO), using the address and phone number below.

SUPPLEMENTARY INFORMATION: Individuals who plan to participate on the conference call or webinar should notify Dr. Weiss at least 3 days prior to the meeting, using the address and phone number below. Interested parties should refer to the meeting subject as the HRSA Advisory Committee on Interdisciplinary, Community-Based Linkages. The logistical challenges of scheduling this meeting hindered an earlier publication of this meeting notice.

The conference call-in number is 800–369–1867. The passcode is: 8803797. The webinar link is *https://hrsa.connectsolutions.com/acicbl/*

FOR FURTHER INFORMATION CONTACT: Anyone requesting information regarding the ACICBL should contact Dr. Joan Weiss in one of three ways: (1) Send a request to the following address: Dr. Joan Weiss, DFO, Bureau of Health Workforce, HRSA, Parklawn Building, Room 12C–05, 5600 Fishers Lane, Rockville, Maryland 20857; (2) call (301) 443–0430; or (3) send an email to *jweiss@hrsa.gov.*

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–28344 Filed 12–1–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Central Repositories Non-Renewable Sample Access (X01) PAR14-301.

Date: January 9, 2015.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Natural Experiments and Pragmatic Research PARs Review.

Date: January 14, 2015.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Biomarker R01 Applications (PAR–13–228).

Date: January 16, 2015.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: *November 25, 2014.*

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–28324 Filed 12–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: III, IHD and VMD.

Date: December 4, 2014.

Time: 3:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 25, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–28323 Filed 12–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be open to the public and will convene by teleconference. The conference call-in number is 866–479–8610 and the access code is 121595. If any special assistance is needed please notify the contact person listed below.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Concept Review: Ghrelin Vaccine for Alcohol Use Disorders.

Date: December 15, 2014.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To provide concept review.

Place: NIAAA, 5635 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, NIH, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the concept review cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 92.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Supports Awards, National Institutes of Health, HHS)

Dated: November 26, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–28393 Filed 12–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: December 16, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 26, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–28392 Filed 12–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2014–0008]

Telecommunications Service Priority (TSP) System

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 60-day notice and request for comments; Extension, without change, of a currently approved collection: 1670–0005.

SUMMARY: The Department of Homeland Security (DHS), National Protection and Programs Directorate (NPPD), Office of Cybersecurity and Communications (CS&C), Office of Emergency Communications (OEC), will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until February 2, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Written comments and questions about this Information Collection Request should be forwarded to DHS/NPPD/CS&C/OEC, 245 Murray Lane, Mail Stop 0615, Washington, DC 20598–0615. Emailed requests should go to Deborah Bea, *deborah.bea@hq.dhs.gov*. Comments must be identified by DHS–2014–0008 and may also be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Email: deborah.bea@hq.dhs.gov.*

Include the docket number in the subject line of the message.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

SUPPLEMENTARY INFORMATION: The purpose of the TSP System is to provide a legal basis for telecommunications vendors to provide priority provisioning and restoration of telecommunications services supporting national security and emergency preparedness functions. The information gathered via the TSP System forms is the minimum necessary for DHS's Office of Emergency Communications to effectively manage the TSP System.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate, Office of Cybersecurity and Communications, Office of Emergency Communications.

Title: Telecommunications Service Priority System.

OMB Number: 1670–0005.

Frequency: Information is required when an organization decides they want TSP priority on their critical circuits. These requests are situational and made at the discretion of the telecommunications user therefore the program office is not able to determine when or how often such requests will occur.

Affected Public: Business (private sector organizations that support critical infrastructure) and Federal, state, local, or tribal governments.

Number of Respondents: 28,161 respondents.

Estimated Time per Respondent: 3 hours, 17 minutes.

Total Burden Hours: 7,727.42 annual burden hours.

Total Burden Cost (capital/startup): $243,259.17.

Total Burden Cost (operating/maintaining): $0.00.

Dated: November 24, 2014.

David Epperson,

Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2014–28335 Filed 12–1–14; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–0687]

Towing Safety Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Towing Safety Advisory Committee. The Towing Safety Advisory Committee advises the Secretary of the Department of Homeland Security on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. Applicants selected for service on the Towing Safety Advisory Committee via this solicitation will not begin their respective terms until September 30, 2015.

DATES: Completed applications should reach the Coast Guard February 2, 2015.

ADDRESSES: Send your application via one of the following methods:

- *By Email: William.J.Abernathy@USCG.mil.*
- *By Fax:* 202–372–8382.
- *By Mail:* Commandant (CG–OES–2) ATTN: Towing Safety Advisory Committee, U.S. Coast Guard, Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509.

FOR FURTHER INFORMATION CONTACT: William J. Abernathy, Alternate Designated Federal Officer of the Towing Safety Advisory Committee; telephone 202–372–1363; Fax 202–372–8382; or email at: *William.J.Abernathy@USCG.mil.*

SUPPLEMENTARY INFORMATION: The Towing Safety Advisory Committee is a Federal advisory committee which operates under the provisions of the *Federal Advisory Committee Act,* Title 5 United States Code Appendix. It was established under authority of the Act to establish a Towing Safety Advisory Committee in the Department of Transportation, (Pub. L. 96–380), which was most recently amended by section 621 of the Coast Guard Authorization Act of 2010, (Pub. L. 111–281). The Committee advises the Secretary of Homeland Security on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. This advice also assists the Coast Guard in formulating the position of the United States regarding the towing industry in advance of International Maritime Organization meetings.

It is expected the Committee will meet twice per year either in the Washington, DC, area or in cities with large towing centers of commerce and populated by high concentrations of towing industry and related businesses. It may also meet for extraordinary purposes. Subcommittees of the Towing Safety Advisory Committee may conduct intercessional telephonic meetings, when necessary, in response to specific U.S. Coast Guard tasking. The Coast Guard is currently considering applications for six

positions that will become vacant on September 30, 2015:

- Two members representing the barge and towing industry;
- One member representing the offshore mineral and oil supply vessel industry;
- One member representing the holders of active licensed Masters of towing vessels in offshore service;
- One member representing shippers engaged in the shipment of oil or hazardous materials by barge; and,
- One member drawn from the general public.

To be eligible, applicants should have particular expertise, knowledge, and experience regarding shallow- draft inland and coastal waterway navigation and towing safety.

Registered lobbyists are not eligible to serve on federal advisory committees in their individual capacity. See guidance notice (79 FR 47482, August 13, 2014). The position we list for a member drawn from the general public would be someone appointed in their individual capacity and would be designated as a Special Government Employee as defined in 202(a) of Title 18, United States Code. Registered lobbyists are lobbyists required to comply with provisions contained in the Lobbying Disclosure Act of 1995 (Pub. L. 104–65, as amended by Title II of Pub. L. 110–81).

Each member serves for a term of up to three (3) years. Members may be considered to serve a maximum of three consecutive terms. All members serve without compensation from the Federal Government; however, upon request, members may receive travel reimbursement and per diem.

In an effort to maintain a geographic balance of membership, we are encouraging representatives from tug and barge companies operating on the Western Rivers to apply for representation on the Committee.

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factors. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment selections.

If you are selected as a non-representative member, or as a member drawn from the general public, you will be appointed and serve as a Special Government Employee as defined in section 202(a) of Title 18, United States Code. As a candidate for appointment as a Special Government Employee, applicants are required to complete a Confidential Financial Disclosure Report (OGE Form 450). The Coast Guard may not release the reports or the information in them to the public except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a). Applicants can obtain this form by going to the Web site of the Office of Government Ethics (*www.oge.gov*), or by contacting the individual listed in **FOR FURTHER INFORMATION CONTACT.** Applications for a member drawn from the general public which are not accompanied by a completed OGE Form 450 will not be considered.

If you are interested in applying to become a member of the Committee, send a cover letter and résumé to William J. Abernathy, Alternate Designated Federal Officer of the Towing Safety Advisory Committee by email, fax, or mail according to the instructions in the **ADDRESSES** section by the deadline in the **DATES** section of this notice. Indicate the specific position you request to be considered for and specify your area of expertise, knowledge, and experience that qualifies you to serve on the Towing Safety Advisory Committee. Note that during the vetting process applicants may be asked to provide date of birth and social security number. All email, fax, and mail submittals will receive email receipt confirmation.

Dated: November 6, 2014.

J.G. Lantz,

Director of Commercial Regulations and Standards, United States Coast Guard.

[FR Doc. 2014–28342 Filed 12–1–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5761–N–03]

60-Day Notice of Submission of Proposed Information Collection to OMB; Standardized Form for Collecting Information Regarding Race and Ethnic Data

AGENCY: Office of Strategic Planning and Management, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* February 2, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2535–0113) and should be sent to: Colette Pollard, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; Telephone (202) 402–4300, (this is not a toll-free number) or email Ms. Pollard at *Colette.Pollard@hud.gov;* for a copy of the proposed form and other available information.

FOR FURTHER INFORMATION CONTACT: Dorthera Yorkshire, Grants Management and Oversight Division, Office of Strategic Planning and Management Department of Housing and Urban Development, 451 7th Street SW., Room 3156, Washington, DC 20410; email: *Dorthera.Yorkshire@hud.gov;* telephone (202) 402–4336; Fax (202) 708–0531 (this is not a toll-free number) for other available information. If you are a hearing-or-speech-impaired person, you may reach the above telephone numbers through TTY by calling the toll-free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Standardized Form for Collecting Information Regarding Race and Ethnic Data.

OMB Control Number if applicable: 2535–0113.

Description of the need for the information and proposed use: HUD's standardized form for the Collection of Race and Ethnic Data complies with OMB's revised standards for Federal Agencies issued, October 30, 1997. These standards apply to HUD Program Office and partners that collect, maintain, and report Federal Data on race and ethnicity for program administrative reporting.

Agency form numbers, if applicable: HUD–27061.

Members of Affected Public: Individuals or households, Business or other-for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimation of the total number of hours needed to prepare the information collection including number of responses, frequency of responses, and hours of responses: This proposal will result in no significant increase in the current information collection burden. An estimation of the total number of hours needed to provide the information for each grant application is 1 hour; however, the burden will be assessed against each individual grant program submission under the Paperwork Reduction Act; number of respondents is an estimated 11,000; 60% of responses will be quarterly and 40% annually.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 3, 2014.

Loyd LaMois,

Acting Director, Grants Management and Oversight Division, Office of Strategic Planning and Management.

[FR Doc. 2014–28358 Filed 12–1–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2014–N238; FXES11120100000–156–FF01E00000]

Draft Programmatic Candidate Conservation Agreements With Assurances and Receipt of Applications for Enhancement of Survival Permits for the Greater Sage-Grouse in Oregon; and Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received applications from five Soil and Water Conservation Districts (SWCDs) for enhancement of survival (EOS) permits under the Endangered Species Act of 1973, as amended (ESA). The permit applications include proposed programmatic candidate conservation agreements with assurances (CCAAs) for the greater sage-grouse, addressing conservation activities and ranching operations in Baker, Crook, Deschutes, Grant, Lake, Malheur, and southern Union Counties, Oregon. The Service also announces the availability of a draft environmental assessment (EA) addressing the proposed CCAAs and issuance of EOS permits in accordance with the National Environmental Policy Act of 1969, as amended (NEPA). We invite comments from all interested parties on the applications, including the CCAAs and the EA.

DATES: To ensure consideration, written comments must be received from interested parties no later than January 2, 2015.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Multi-County CCAA.

- *Internet:* Documents may be viewed on the Internet at *http://www.fws.gov/oregonfwo/.*
- *Email: Jeff_Everett@fws.gov.* Include "Multi-County CCAA" in the subject line of the message or comments.
- *U.S. Mail:* U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 SE. 98th Ave., Suite 100, Portland, OR 97266.
- *Fax:* 503–231–6195, Attn: Multi-County CCAA.
- *In-Person Viewing or Pickup:* Documents will be available for public inspection by appointment during normal business hours at the U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 SE. 98th Ave., Suite 100, Portland, OR.

FOR FURTHER INFORMATION CONTACT: Jeff Everett or Jennifer Siani, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office (see **ADDRESSES**), telephone: 503–231–6179. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We have received five applications—from Baker Valley SWCD, Crook County SWCD, Grant SWCD, Lakeview SWCD, and Malheur County SWCD—for EOS permits under section 10(a)(1)(A) of the ESA for incidental take of sage-grouse (*Centrocercus urophasianus*). Each application includes a CCAA covering sage-grouse habitat on private lands in one or two counties in Oregon. The Service and the SWCDs prepared the CCAAs to provide landowners with the opportunity to voluntarily conserve the greater sage-grouse and its habitat while carrying out ranch operations.

Background Information

Private and other non-Federal property owners are encouraged to enter into CCAAs, in which they voluntarily undertake management activities on their properties to enhance, restore, or maintain habitat benefiting species that are proposed for listing under the ESA, candidates for listing, or species that may become candidates or proposed for listing. EOS permits are issued to applicants in association with approved CCAAs to authorize incidental take of the covered species from covered activities, should they become listed. Through a CCAA and its associated EOS permit, the Service provides assurances to property owners that they will not be subjected to increased land use restrictions if the covered species become listed under the ESA in the future, provided certain conditions are met.

Application requirements and issuance criteria for EOS permits for CCAAs are found in the Code of Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d), respectively. See also our joint policy on CCAAs, which we published in the **Federal Register** with the Department of Commerce's National Oceanic and Atmospheric Administration, National Marine Fisheries Service (64 FR 32726; June 17, 1999).

On March 23, 2010, the Service determined that listing the greater sage-grouse under the ESA (16 U.S.C. 1538) was warranted, but precluded by the need to address higher priority species

first. A proposed listing determination is scheduled for September 2015. In anticipation of the potential listing of sage-grouse under the ESA, the SWCDs requested assistance from the Service in developing sage-grouse CCAAs for ranch management activities on behalf of private landowners in Baker, Crook, Deschutes, Grant, Lake, Malheur, and southern Union Counties, Oregon.

Proposed Action

The Service proposes to approve five programmatic CCAAs and to issue EOS permits, each with a term of 30 years, to the applicants for incidental take of greater sage-grouse caused by covered activities, if permit issuance criteria are met. Covered activities include rangeland treatments, livestock management, recreation, farm operations, and developments associated with ranching operations. The area covered under these proposed programmatic CCAAs is approximately 2,312,673 acres of core area (or preliminary priority habitat) and low-density (or preliminary general habitat) sage-grouse habitat located in Baker, Crook, Deschutes, Grant, Lake, Malheur, and southern Union Counties, Oregon. Sage-grouse currently use habitats on the covered lands for lekking (breeding displays), late brood-rearing, and wintering.

The draft programmatic CCAAs describe all of the threats to sage-grouse that have been identified on the covered lands, including: Loss and fragmentation of sagebrush habitat; large wildfires, as well as lack of fire in some areas; encroachment of junipers and other conifers; improper grazing; invasive plants; vegetation treatments that reduce or degrade sagebrush habitat; degradation of riparian areas; drought, as well as catastrophic flooding; disturbance from recreation and other activities; predation; West Nile virus; wild horse and burros; and insecticide use. The CCAAs also describe conservation measures landowners would implement to address each threat. Implementation of the programmatic CCAAs would benefit sage-grouse by reducing or eliminating threats to the species on the covered lands and by creating or maintaining habitat conditions that are suitable for all life-history stages of the species through the implementation of conservation measures.

A private landowner who wishes to enroll under the programmatic CCAA would develop, in coordination with the SWCD, a site-specific plan (SSP) for the property to be enrolled. The SWCD would assist the landowner in identifying threats on the property and in selecting conservation measures to address those threats. Once the SSP is completed, the SWCD will submit it to the Service for approval. If the Service determines that an SSP is consistent with the terms and conditions established in the CCAA and EOS permit, the Service will issue a letter of concurrence to the SWCD approving the SSP. Upon Service approval of the SSP, the landowner and the SWCD will sign a Certificate of Inclusion in order for the landowner to receive coverage under the EOS permit issued to the SWCD for take of sage-grouse incidental to conservation and ranching activities, should the species become listed. Take authorization would become effective upon listing, as long as the enrolled landowner is in compliance with the terms and conditions of their SSP and the EOS permit.

National Environmental Policy Act Compliance

Approval of programmatic CCAAs and issuance of EOS permits are Federal actions that trigger the need for compliance with NEPA. Pursuant to NEPA, we have prepared one draft EA to analyze the environmental impacts related to the issuance of all five EOS permits and implementation of their associated programmatic CCAAs.

The EA analyses three alternatives: A "no action" alternative, a landowner-specific alternative, and the proposed action. Under the no action alternative, the FWS would not enter into any additional CCAAs nor issue additional EOS permits for incidental take of sage-grouse associated with private ranching operations in Oregon; however, existing CCAAs and other conservation efforts would continue. The landowner-specific alternative would involve the development of CCAAs and issuance of EOS permits on an individual landowner-by-landowner basis. The proposed action alternative is a programmatic approach, in which the FWS would issue EOS permits to SWCDs and enter into multi-county CCAAs that will streamline landowner enrollment through certificates of inclusion. The proposed action is further described under "Proposed Action."

Public Comments

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We specifically request information, views, opinions, or suggestions from the public on our proposed Federal permit actions. We particularly seek comments on the following: (1) Biological information and data concerning greater sage-grouse; (2) current or planned activities in the covered area and their possible impacts on sage-grouse; (3) identification of any other environmental effects that should be considered with regard to the proposed permit actions; and (4) information regarding the adequacy of the CCAAs pursuant to the requirements for permits at 50 CFR parts 13 and 17.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments and materials we receive, as well as supporting documentation we use in preparing the EA, will be available for public inspection by appointment, during normal business hours, at our Oregon Fish and Wildlife Office (see **ADDRESSES**).

Next Steps

After completion of the EA based on consideration of public comments, we will determine whether adoption of the programmatic CCAAs warrants a finding of no significant impact or whether an environmental impact statement should be prepared pursuant to NEPA. We will evaluate the programmatic CCAAs, as well as any comments we receive, to determine whether implementation of the CCAAs would meet the criteria for issuance of EOS permits under section 10(a)(1)(A) of the ESA. We will also evaluate whether the proposed permit action would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will consider the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue EOS permits to the SWCDs. We will not make the final NEPA and permit decisions until after the end of the 30-day public comment period on this notice, and we will fully consider all comments we receive during the public comment period.

If we determine that the permit issuance requirements are met, the Service will issue EOS permits to the five SWCDs. The SWCDs would then begin processing applications from landowners interested in developing SSPs consistent with the CCAAs in

order to receive coverage for the incidental take of greater sage-grouse under the SWCDs' EOS permits.

Authority

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 *et seq.*), and NEPA (42 U.S.C. 4321 *et seq.*) and their implementing regulations (50 CFR 17.22 and 40 CFR 1506.6, respectively).

Dated: November 17, 2014 .

Richard Hannan,

Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 2014–28361 Filed 12–1–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2014–0077; MMAA104000]

Environmental Assessment for Virginia Offshore Wind Technology Advancement Project on the Atlantic Outer Continental Shelf Offshore Virginia

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of Availability of an Environmental Assessment.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) has prepared an Environmental Assessment (EA) to consider the reasonably foreseeable environmental consequences associated with the approval of wind energy-related research activities offshore Virginia as proposed by the Virginia Department of Mines, Mineral, and Energy (DMME). The purpose of this notice is to inform the public of the availability of the EA and to solicit public comment on the EA for a 30-day public comment period.

DATES: BOEM will conduct a public information meeting to explain the proposed activities analyzed in the EA and provide additional opportunity for public comment on the EA. The meeting will be held on Wednesday, December 17, 2014, from 5:00 to 8:00 p.m., at the Virginia Aquarium and Marine Science Center, 717 General Booth Boulevard, Virginia Beach, Virginia 23451.

FOR FURTHER INFORMATION CONTACT: Michelle Morin, BOEM Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170–4817, (703) 787–1340 or *michelle.morin@boem.gov*.

SUPPLEMENTARY INFORMATION: On December 6, 2013, BOEM issued a Determination of No Competitive Interest (78 FR 73882) for a research lease requested by the Virginia Department of Mines, Minerals and Energy (DMME). DMME subsequently submitted a research activities plan (RAP) that describes the proposed construction, operation, maintenance, and eventual decommissioning of Virginia Offshore Wind Technology Advancement Project (VOWTAP). The RAP included the results of site characterization studies, such as geophysical, geotechnical, archaeological, and biological surveys. DMME's proposed project would consist of two 6–MW wind turbine generators (WTGs), a 34.5-kilovolt (kV) alternating current (AC) submarine cable interconnecting the WTGs (inter-array cable), a 34.5 kV AC submarine transmission cable (export cable), and a 34.5 kV underground cable (onshore interconnection cable) that would connect the proposed project with existing infrastructure located in the City of Virginia Beach. The U.S. Department of Energy (DOE) is proposing to provide funding in support of VOWTAP and is participating as a cooperating agency in the National Environmental Policy Act (NEPA) process.

On March 14, 2014, BOEM published a Notice of Intent (NOI) to prepare an EA in the **Federal Register** (79 FR 14534). Comments received in response to the NOI can be viewed at: *http://www.regulations.gov* by searching for Docket ID BOEM–2014–0009. A public scoping meeting was held April 3, 2014 in Virginia Beach, Virginia. BOEM used the input from the scoping process to solicit information regarding important environmental issues and alternatives that should be considered in the EA. Additionally, BOEM used the scoping process to identify and eliminate from detailed study issues which are not significant or issues that have been analyzed in prior environmental reviews.

BOEM is seeking public input on the EA, including comments on the completeness and adequacy of the environmental analysis. BOEM will consider public comments on the EA in determining whether to issue a Finding of No Significant Impact (FONSI), or conduct additional analysis under the NEPA.

The EA and information on the public information meeting can be found online at *http://www.boem.gov/Research-Nomination-Outside-and-to-the-West-of-the-WEADOE/*.

COMMENTS: Federal, State, and local government agencies, tribal governments, and other interested parties are requested to submit their written comments on the EA in one of the following ways:

1. Electronically: *http://www.regulations.gov*. In the entry entitled "Enter Keyword or ID," enter BOEM–2014–0077, then click "search." Follow the instructions to submit public comments and view supporting and related materials available for this document.

2. In written form, delivered by hand or by mail, enclosed in an envelope labeled "Approval of the Virginia Offshore Wind Technology Advancement Project on the Atlantic Outer Continental Shelf (OCS) Offshore Virginia" to: Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 381 Elden Street, HM 1328, Herndon, Virginia 20170–4817.

Comments must be received or postmarked no later than January 2, 2015. All written comments received or postmarked during the comment period will be made available to the public.

Authority: This Notice of Availability is published pursuant to 43 CFR 46.305.

Dated: November 24, 2014.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2014–28164 Filed 12–1–14; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–506 and 508 and 731–TA–1238–1243 (Final)]

Non-Oriented Electrical Steel From China, Germany, Japan, Korea, Sweden, and Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) and (19 U.S.C. 1673d(b)) ("the Act"), that an industry in the United States is materially injured by reason of imports of non-oriented electrical steel from China, Germany, Japan, Korea, Sweden, and Taiwan, provided for in subheadings 7225.19.00, 7226.19.10, and 7226.19.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

States at less than fair value ("LTFV"), and by reason of imports from China and Taiwan that have been found by Commerce to be subsidized by the governments of China and Taiwan.[2] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of those countervailing and antidumping duty orders to be issued on non-oriented electrical steel from China, Germany, Japan, and Sweden.

Background

The Commission instituted these investigations effective September 30, 2013, following receipt of a petition filed with the Commission and Commerce by AK Steel Corp., West Chester, Ohio. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of non-oriented electrical steel from China and Taiwan were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and that imports of non-oriented electrical steel from China, Germany, Japan, Korea, Sweden, and Taiwan were sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)).[3] Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on July 11, 2014 (79 FR 40143). The hearing was held in Washington, DC, on October 8, 2014, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission completed and filed its determinations in these investigations on November 25, 2014. The views of the Commission are contained in USITC Publication 4502 (November 2014), entitled *Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan: Investigation Nos. 701–TA–506 and 508 and 731–TA–1238–1243 (Final).*

[2] Chairman Meredith M. Broadbent dissented.

[3] In its preliminary countervailing duty determination, Commerce found that imports of non-oriented electrical steel were not being and not likely to be subsidized by the government of Korea (79 FR 16295, March 25, 2014). Following a final negative countervailing duty determination by Commerce with respect to non-oriented electrical steel from Korea (79 FR 61605, October 14, 2014), the Commission terminated investigation No. 701–TA–507 (79 FR 64408, October 29, 2014).

By order of the Commission.

Issued: November 25, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–28249 Filed 12–1–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Oil Pollution Act of 1990 and Section 128d of the Hawaii Environmental Response Law

On November 20, 2014, the Department of Justice lodged a proposed Consent Decree ("Consent Decree") with the United States District Court for the District of Hawaii in an action entitled *United States of America and the State of Hawaii* v. *Denak Ship Management and Vogetrader Shipping Inc.*, Civil Action No. 14–00529.

In this action, the United States and the State of Hawaii filed a joint complaint against Denak Ship Management and Vogetrader Shipping Inc. ("Defendants") pursuant to Sections 1002(a), (b)(1)(A) and (b)(2)(A), of the Oil Pollution Act of 1990, 33 U.S.C. 2701 *et seq.*, or Section 128D of the Hawaii Environmental Response law, Haw. Rev. Stat. § 128D, respectively, to recover for natural resource damages arising from the February 5, 2010, grounding of the M/V Vogetrader on coral reef habitat outside the entrance channel to Barbers Point Harbor, Oahu, Hawaii.

The Consent Decree requires the Defendants to pay eight hundred forty thousand dollars ($840,000) in natural resource damages. Of this sum, six hundred ninety five thousand six hundred fifty seven dollars ($695,657) shall be paid to the United States Department of Commerce, National Oceanic and Atmospheric Administration ("NOAA") on behalf of the natural resource trustees and will be used for the design, implementation, and oversight of restoration projects. The remaining one hundred forty four thousand three hundred forty three dollars ($144,343) shall be paid to NOAA for reimbursement of its natural resource damage assessment costs.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America and the State of Hawaii* v. *Denak Ship Management and Vogetrader Shipping Inc.*, D.J. Ref. No. 90–5–1–1–11013. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email ...	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide paper copies of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.25 (25 cents per page reproduction cost) for the Consent Decree payable to the United States Treasury.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–28340 Filed 12–1–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Members of SGIP 2.0, Inc.

Notice is hereby given that, on October 27, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Members of SGIP 2.0, Inc. ("MSGIP 2.0") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, PowerHub Systems, Blacksburg, VA; London Hydro, London, United Kingdom; Telecommunications Technology Association, Seongnam-City, Gyeonggi-do, Republic of Korea; Utility Integration Solutions Organization, Fort Washington, PA; and Advanced Energy

Centre, Toronto, Ontario, Canada, have been added as parties to this venture.

Also, International Business Machines Corporation, Yorktown Heights, NY; Quadlogic Controls Corp., Long Island City, NY; UCA International Users Group, Raleigh, NC; Amzur Technologies, Inc., Tampa, FL; Pacific Data Bank Security, Delta, British Columbia, Canada; Kkrish Energy LLC, Colorado Springs, CO; Analysis Group, Inc., Boston, MA; and Inman Technology, Cambridge, MA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MSGIP 2.0 intends to file additional written notifications disclosing all changes in membership.

On February 5, 2013, MSGIP 2.0 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 7, 2013 (78 FR 14836).

The last notification was filed with the Department on August 4, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 3, 2014 (79 FR 52363).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–28367 Filed 12–1–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

Record of Vote of Meeting Closure

(Pub. L. 94–409) (5 U.S.C. Sec. 552b)

I, Isaac Fulwood, of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 10:30 a.m., on Friday, November 21, 2014 at the U.S. Parole Commission, 90 K Street NE., Third Floor, Washington, DC 20530. The purpose of the meeting was to discuss seven original jurisdiction cases pursuant to 28 CFR 2.27. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of the Acting General Counsel that this meeting may be closed by votes of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Isaac Fulwood, Cranston, Mitchell, J. Patricia Wilson Smoot and Charles T. Massarone.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: November 24, 2014.

Isaac Fulwood,

Chairman, U.S. Parole Commission.

[FR Doc. 2014–28204 Filed 11–28–14; 4:15 pm]

BILLING CODE 4410–31–P

DEPARTMENT OF LABOR

Notice of Initial Determination Revising the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor Pursuant to Executive Order 13126

AGENCY: Bureau of International Labor Affairs (ILAB), Department of Labor.

ACTION: Request for comments.

SUMMARY: This initial determination proposes to revise the list (EO List) required by Executive Order No. 13126 ("Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor") in accordance with the Department of Labor's "Procedural Guidelines for the Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor" (the Procedural Guidelines). The EO List identifies products, by their country of origin, that the Department of Labor (DOL), in consultation and cooperation with the Departments of State and Homeland Security (the three Departments), has a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor. This notice proposes to add one new line item (carpets from India) to the EO List. DOL invites public comment on this initial determination. The three Departments will consider all public comments prior to publishing a final determination revising the EO List.

DATES: Information should be submitted to the Office of Child Labor, Forced Labor, and Human Trafficking (OCFT) via one of the methods described below by no later than 5 p.m., January 30, 2015.

To Submit Information, or For Further Information, Contact:

Information submitted to DOL should be submitted directly to OCFT, Bureau of International Labor Affairs, U.S. Department of Labor, at (202) 693–4843 (this is not a toll free number). Comments, identified as "Docket No. DOL–2014–0004," may be submitted by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. The portal includes instructions for submitting comments. Parties submitting responses electronically are encouraged not to submit paper copies.

Facsimile (fax): OCFT, at 202–693–4830.

Mail, Express Delivery, Hand Delivery, and Messenger Service (2 copies): Rachel Rigby/Charita Castro, at U.S. Department of Labor, OCFT, Bureau of International Labor Affairs, 200 Constitution Avenue NW., Room S–5317, Washington, DC 20210.

Email: EO13126@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Information Sought

DOL is requesting public comment on the revisions to the list proposed below, as well as any other issue related to the fair and effective implementation of Executive Order (EO) 13126. This notice is a general solicitation of comments from the public. All submitted comments will be made a part of the public record and will be available for inspection on *http://www.regulations.gov.*

In conducting research for this initial determination, DOL considered a wide variety of materials based on its own research and originating from other U.S. Government agencies, foreign governments, international organizations, non-governmental organizations, U.S. Government-funded technical assistance and field research projects, academic and other independent research, media, and other sources. The Department of State and U.S. embassies and consulates abroad also provide important information by gathering data from contacts, conducting site visits and reviewing local media sources. In developing the proposed revision to the EO List, DOL's review focused on information concerning the use of forced or indentured child labor that was available from the above sources.

As outlined in the Procedural Guidelines, several factors were weighed in determining whether or not a product should be placed on the revised EO List: The nature of the information describing the use of forced or indentured child labor; the source of the information; the date of the information; the extent of corroboration of the information by other sources; whether the information involved more

than an isolated incident; and whether recent and credible efforts are being made to address forced or indentured child labor in a particular country or industry (66 FR 5351).

This notice constitutes the initial determination to revise the EO List issued July 23, 2013.

Based on recent, credible and appropriately corroborated information from various sources, DOL preliminarily concludes that there is a reasonable basis to believe that the following product, identified by the country of origin, might have been mined, produced, or manufactured by forced or indentured child labor:

Product	Country
Carpets	India.

DOL invites public comment on whether this product (and/or other products, regardless of whether they are mentioned in this Notice) should be included in or removed from the revised EO List. To the extent possible, comments provided should address the criteria for inclusion of a product on the EO List contained in the Procedural Guidelines discussed above.

A bibliography providing the preliminary basis for adding this good to the EO List are available on the Internet at *http://www.dol.gov/ilab/reports/child-labor/list-of-products/*.

Following receipt and consideration of comments on the addition to the EO List set out above, DOL, in consultation and cooperation with the Departments of State and Homeland Security, will issue a final determination in the **Federal Register**.The three Departments intend to continue to revise the EO List periodically to add and/or remove products as warranted by the receipt of new and credible information.

II. Background

On June 12, 1999 President Clinton signed EO 13126, which was published in the **Federal Register** on June 16, 1999 (64 FR 32383). EO 13126 declared that it was "the policy of the United States Government . . . that executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part by forced or indentured child labor." Pursuant to EO 13126, and following public notice and comment, DOL published in the January 18, 2001 **Federal Register** the first EO List of products, along with their respective countries of origin, that DOL, in consultation and cooperation with the Departments of State and Treasury (whose relevant responsibilities are now within the Department of Homeland Security), had a reasonable basis to believe might have been mined, produced or manufactured with forced or indentured child labor (66 FR 5353).

The Procedural Guidelines provide that the EO List may be revised through consideration of submissions by individuals and on DOL's own initiative. When proposing a revision to the EO List, DOL must publish in the **Federal Register** a notice of initial determination, which includes any proposed alteration to the EO List. DOL will consider all public comments prior to the publication of a final determination of a revised EO List, which is made in consultation and cooperation with the Departments of State and Homeland Security.

On January 18, 2001, pursuant to Section 3 of EO 13126, the Federal Acquisition Regulatory Council published a final rule to implement specific provisions of EO 13126 that requires, among other things, that federal contractors who supply products that appear on the EO List certify to the contracting officer that the contractor, or, in the case of an incorporated contractor, a responsible official of the contractor, has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of forced or indentured child labor. See 48 CFR Subpart 22.15.

On September 11, 2009, DOL published an initial determination in the **Federal Register** proposing to revise the EO List to include 29 products from 21 countries. The Notice requested public comments for a period of 90 days. Public comments were received and reviewed by all relevant agencies and a final determination was issued on July 20, 2010. Following the same process, the EO List was revised again in 2011, 2012, and 2013. The most recent EO List, finalized on July 23, 2013, includes 34 products from 26 countries.

The current EO List and the Procedural Guidelines can be accessed on the Internet at *http://www.dol.gov/ilab/reports/child-labor/list-of-products/* or can be obtained from: OCFT, Bureau of International Labor Affairs, Room S–5317, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–4843; fax (202) 693–4830.

III. Definitions

Under Section 6(c) of EO 13126:

"Forced or indentured child labor" means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

Signed at Washington, DC, this 14th day of November 2014.

Carol Pier,

Deputy Undersecretary for International Affairs.

[FR Doc. 2014–27624 Filed 12–1–14; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Decisions on States' Applications for Relief From Tax Credit Eductions Provided Under Section 3302 of the Federal Unemployment Tax Act (FUTA) Applicable in 2014

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Sections 3302(c)(2)(A) and 3302(d)(3) of the FUTA provide that employers in a State that has an outstanding balance of advances under Title XII of the Social Security Act at the beginning of January 1 of two or more consecutive years are subject to a reduction in credits otherwise available against the FUTA tax for the calendar year in which the most recent such January 1 occurs, if a balance of advances remains at the beginning of November 10 of that year. Further, section 3302(c)(2)(C) of FUTA provides for an additional credit reduction for a year if a State has outstanding advances on five or more consecutive January firsts and has a balance at the beginning of November 10 for such years. Section 3302(c)(2)(C) also provides for waiver of this additional credit reduction and substitution of the credit reduction provided in section 3302(c)(2)(B) if a state meets certain conditions.

The States of California, Indiana, Kentucky, Missouri, New York, North Carolina, Ohio, Rhode Island, South Carolina, Virgin Islands, and Wisconsin applied for a waiver of the 2014 additional credit reduction under section 3302(c)(2)(C) of FUTA and it has been determined that each of these

States met all of the criteria of that section necessary to qualify for the waiver of the additional credit reduction. Further, the additional credit reduction of section 3302(c)(2)(B) is zero for these States for 2014. Therefore, employers in these States will have no additional credit reduction applied for calendar year 2014. In addition, Missouri, Rhode Island, and Wisconsin did not have balance of advances at the beginning of November 10, 2014. Therefore, employers in those States will have no reduction in FUTA offset credit for calendar year 2014.

Section 3302(g) of FUTA provides that a State may avoid any reduction in credit for a year by meeting certain criteria. South Carolina applied for avoidance of the 2014 credit reduction under this section. It has been determined that South Carolina met all of the criteria of section 3302(g) and thus qualifies for credit reduction avoidance. Therefore, South Carolina employers will have no reduction in FUTA credit for calendar year 2014.

Portia Wu,

Assistant Secretary for Employment and Training.

[FR Doc. 2014–28328 Filed 12–1–14; 8:45 am]

BILLING CODE 4510–FW–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0245]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 20, "Standards for Protection Against Radiation."

2. *Current OMB approval number:* 3150–0014.

3. *How often the collection is required:* Annually for most reports and at license termination for reports dealing with decommissioning.

4. *Who is required or asked to report:* NRC licensees and Agreement State licensees, including those requesting license terminations. Types of licensees include civilian commercial, industrial, academic, and medical users of nuclear materials. Licenses are issued for, among other things, the possession, use, processing, handling, and importing and exporting of nuclear materials, and for the operation of nuclear reactors.

5. *The number of annual respondents:* 21,018 (3,003 NRC licensees and 18,015 Agreement State licensees).

6. *The number of hours needed annually to complete the requirement or request:* 640,776 hours (91,545 hours for NRC licensees and 549,231 hours for Agreement State licensees).

7. *Abstract:* 10 CFR part 20 establishes standards for protection against ionizing radiation resulting from activities conducted under licenses issued by the NRC and by Agreement States. These standards require the establishment of radiation protection programs, maintenance of radiation protection programs, maintenance of radiation records recording of radiation received by workers, reporting of incidents which could cause exposure to radiation, submittal of an annual report to NRC and to Agreement States of the results of individual monitoring, and submittal of license termination information. These mandatory requirements are needed to protect occupationally exposed individuals from undue risks of excessive exposure to ionizing radiation and to protect the health and safety of the public.

Submit, by February 2, 2015, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and purchase copies of the publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC's home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

Comments submitted should reference Docket No. NRC–2014–0245. You may submit your comments by any of the following methods. Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0245. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 25th day of November, 2014.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–28246 Filed 12–1–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0250]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of 4 amendment

requests. The amendment requests are for Grand Gulf Nuclear Station, Unit 1; Peach Bottom Atomic Power Station, Units 2 and 3; Vogtle Electric Generating Plant, Units 1 and 2 and Joseph M. Farley Nuclear Plant, Units 1 and 2; and South Texas Project, Units 1 and 2. The NRC proposes to determine that each amendment request involves no significant hazards consideration. In addition, each amendment request contains sensitive unclassified non-safeguards information (SUNSI).

DATES: Comments must be filed by January 2, 2015. A request for a hearing must be filed by February 2, 2015. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by December 12, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0250. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Angela M. Baxter, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–2976, email: *Angela.Baxter@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0250 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0250.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *"ADAMS Public Documents"* and then select *"Begin Web-based ADAMS Search."* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0250 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register.** Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. The petition must demonstrate that the matters raised are within the scope of the proceeding. The issues raised must be material to the finding the NRC must make to support the action involved in the proceeding. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger of the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by email to *MSHD.Resource@nrc.gov*, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: September 25, 2013, as supplemented by letters dated December 30, 2013, March 10, 2014, and April 11, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML13269A140, ML13364A286, ML14069A103, and ML14104A144, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed license amendment would allow Grand Gulf Nuclear Station, Unit 1 (GGNS) to operate in the expanded Maximum Extended Load Line Limit Analysis Plus (MELLLA+) domain. Specifically, the amendment would change the Technical Specifications (TSs) including the operating power/flow map and a number instrument allowable values and setpoints, and the current core stability solution.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The probability (frequency of occurrence) of design basis accidents occurring is not affected by the MELLLA+ operating domain because GGNS continues to comply with the regulatory and design basis criteria established for plant equipment. Furthermore, a probabilistic risk assessment demonstrates that the calculated core damage frequencies do not significantly change due to the MELLLA+.

There is no change in consequences of postulated accidents when operating in the MELLLA+ operating domain compared to the operating domain previously evaluated. The results of accident evaluations remain within the NRC-approved acceptance limits. The spectrum of postulated transients has been investigated and shown to meet the plant's currently licensed regulatory criteria. In the area of fuel and core design, for example, the Safety Limit Minimum Critical Power Ratio (SLMCPR) is still met. Continued compliance with the SLMCPR is confirmed on a cycle-specific basis consistent with the criteria accepted by the NRC.

Challenges to the reactor coolant pressure boundary were evaluated for the MELLLA+ operating domain conditions (pressure, temperature, flow, and radiation) and were found to meet their acceptance criteria for allowable stresses and overpressure margin.

Challenges to the containment were evaluated and the containment and its associated cooling systems continue to meet the current licensing basis. The calculated post LOCA [loss-of-coolant accident] suppression pool temperature remains acceptable.

Based on the above, operating in the MELLLA+ domain does not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Equipment that could be affected by the MELLLA+ operating domain has been evaluated. No new operating mode, safety-related equipment lineup, accident scenario, or equipment failure mode was identified. The full spectrum of accident considerations has been evaluated and no new or different kind of accident has been identified. The MELLLA+ operating domain uses developed technology, which is applied within the capabilities of existing plant safety-related equipment in accordance with the regulatory criteria (including NRC-approved codes, standards and methods). No new accident or event precursor has been identified. In addition, the changes have been assessed and determined not to introduce a different accident than that previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The MELLLA+ operating domain affects only design and operating margins. Challenges to the fuel, reactor coolant pressure boundary, and containment were evaluated for MELLLA+ operating domain conditions. Fuel integrity is maintained by meeting existing design and regulatory limits. The calculated loads on affected structures, systems, and components, including the reactor coolant pressure boundary, will remain within their design allowables for design basis event categories. No NRC acceptance criterion is exceeded.

Because the GGNS configuration and responses to transients and postulated accidents do not exceed the NRC-approved acceptance limits, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Douglas A. Broaddus.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of amendment request: September 4, 2014. A publicly-available version is in ADAMS under Accession No. ML14247A503.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would revise the Technical Specifications and Facility Operating Licenses to allow operation in the expanded Maximum Extended Load Line Limit Analysis Plus (MELLLA+) domain. The MELLLA+ expanded operating domain increases operating flexibility by allowing control of reactivity at maximum power by changing flow rather than by control rod insertion and withdrawal.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed operation in the MELLLA+ operating domain does not significantly increase the probability or consequences of an accident previously evaluated. The probability (frequency of occurrence) of Design Basis Accidents (DBAs) occurring is not affected by the MELLLA+ operating domain because PBAPS continues to comply with the regulatory and design basis criteria established for plant equipment. There is no change in consequences of postulated accidents when operating in the MELLLA+ operating domain compared to the operating domain previously evaluated. The results of accident evaluations remain within the NRC approved acceptance limits.

The spectrum of postulated transients has been investigated and is shown to meet the plant's currently licensed regulatory criteria. Continued compliance with the Safety Limit Minimum Critical Power Ratio (SLMCPR) will be confirmed on a cycle-specific basis consistent with the criteria accepted by the NRC.

Challenges to the reactor coolant pressure boundary were evaluated for the MELLLA+ operating domain conditions (pressure, temperature, flow, and radiation) and were found to meet their acceptance criteria for allowable stresses and overpressure margin.

Challenges to the containment were evaluated and the containment and its associated cooling systems continue to meet the current licensing basis. The calculated post-Loss-of-Coolant Accident (LOCA) suppression pool temperature remains acceptable.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed operation in the MELLLA+ operating domain does not create the possibility of a new or different kind of accident from any previously evaluated.

Equipment that could be affected by the MELLLA+ operating domain has been evaluated. No new operating mode, safety-related equipment lineup, accident scenario, or equipment failure mode was identified. The full spectrum of accident considerations has been evaluated and no new or different kind of accident has been identified. The MELLLA+ operating domain uses developed technology, and applies it within the capabilities of existing plant safety-related equipment in accordance with the regulatory criteria (including NRC-approved codes, standards and methods). No new accident or event precursor has been identified. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed operation in the MELLLA+ domain does not involve a significant reduction in the margin of safety.

The MELLLA+ operating domain affects only design and operational margins. Challenges to the fuel, reactor coolant pressure boundary, and containment were evaluated for the MELLLA+ operating domain conditions. Fuel integrity is maintained by meeting existing design and regulatory limits. The calculated loads on affected structures, systems, and components, including the reactor coolant pressure boundary, will remain within their design allowables for design basis event categories. No NRC acceptance criterion is exceeded. The PBAPS configuration and responses to transients and postulated accidents do not result in exceeding the presently approved NRC acceptance limits.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

Attorney for Licensee: J. Bradley Fewell, Esquire, Vice President and Deputy General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Kennett Square, Pennsylvania 19348.

NRC Branch Chief: Meena K. Khanna.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia and Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: September 17, 2014. A publicly-available version is in ADAMS under Accession No. ML14267A030.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendments would revise the Technical Specification (TS) Surveillance Requirement (SR) 3.1.3.2 and TS 5.6.5 related to the moderator temperature coefficient.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The safety analysis assumption of a constant moderator density coefficient and the actual value assumed are not changing. The Bases for and values of the most negative MTC [moderator temperature coefficient] Limiting Condition for Operation [LCO] and for the Surveillance Requirement are not changing. Instead, a revised prediction is compared to the MTC Surveillance limit to determine if the limit is met.

The proposed changes to the TS [technical specification] do not affect the initiators of any analyzed accident. In addition, operation in accordance with the proposed TS changes ensures that the previously evaluated accidents will continue to be mitigated as analyzed. The proposed changes do not adversely affect the design function or operation of any structures, systems, and components important to safety.

The probability or consequences of accidents previously evaluated in the UFSAR [updated final safety analysis report] are unaffected by this proposed change because there is no change to any equipment response or accident mitigation scenario. There are no new or additional challenges to fission product barrier integrity.

Therefore, it is concluded that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The safety analysis assumption of a constant moderator density coefficient and the actual value assumed are not changing. The Bases for and values of the most negative MTC Limiting Condition for Operation and for the Surveillance Requirement are not changing. Instead, a revised prediction is compared to the MTC Surveillance limit to determine if the limit is met.

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed). The proposed changes do not create any new failure modes for existing equipment or any new limiting single failures. Additionally the proposed changes do not involve a change in the methods governing normal plant operation and all safety functions will continue to perform as previously assumed in accident analyses. Thus, the proposed changes do not adversely affect the design function or operation of any structures, systems, and components important to safety.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes. The proposed changes do not challenge the performance or integrity of any safety related system.

Therefore, it is concluded that the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The safety analysis assumption of a constant moderator density coefficient and the actual value assumed are not changing. The Bases for and values of the most negative MTC Limiting Condition for Operation and for the Surveillance Requirement are not changing. Instead, a revised prediction is compared to the MTC Surveillance limit to determine if the limit is met.

The margin of safety associated with the acceptance criteria of any accident is unchanged. The proposed change will have no affect on the availability, operability, or performance of the safety-related systems and components. A change to a surveillance requirement is proposed based on an alternate method of confirming that the surveillance is met. The Technical Specification Limiting Condition for Operation (LCO) limits are not being changed.

The proposed change will not adversely affect the operation of plant equipment or the function of equipment assumed in the accident analysis.

Therefore, it is concluded that the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Leigh D. Perry, SVP & General Counsel of Operations and Nuclear, Southern Nuclear Operating Company, 40 Iverness Center Parkway, Birmingham, Alabama 35201.

NRC Branch Chief: Robert J. Pascarelli.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project (STP), Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 14, 2014. A publicly-available version is in ADAMS under Accession No. ML14260A432.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendments would revise Administrative Controls Technical Specification (TS) 6.9.1.6, "Core Operating Limits Report (COLR)," with respect to the analytical methods used to determine the core operating limits. During the 2015, refueling outages for STP, Units 1 and 2, STP Nuclear Operating Company will replace the existing Crossflow Ultrasonic Flow Measurement (UFM) System with a Cameron/Caldon Leading Edge Flow Meter (LEFM) CheckPlus System for measuring feedwater flow. The proposed TS change would revise the methodology for operating at a rated thermal power (RTP) of 3,853 Megawatt Thermal (MWt) to reflect the change of feedwater flow measurement equipment. This license amendment request and its TS change reflect only the equipment change and do not constitute a measurement uncertainty recapture (MUR) power uprate application. STP, Units 1 and 2, will continue to operate with the currently licensed RTP of 3,853 MWt.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change reflects a physical alteration of the plant, but not a new or different type of equipment. The existing external Crossflow UFM System will be replaced with the Cameron/Caldon LEFM

CheckPlus System, both of which are ultrasonic feedwater flow measuring systems. The proposed change will not affect the operation or function of plant equipment or systems. The proposed change will not introduce any new accident initiators, and therefore, does not increase the probability of any accident previously evaluated. There will be no degradation in the performance of or an increase in the number of challenges imposed on safety-related equipment assumed to function during an accident situation. There will be no change to normal plant operating parameters or accident mitigation performance. The proposed change will not alter any assumptions or change any mitigation actions in the radiological consequence evaluations in the [Updated Final Safety Analysis Report (UFSAR)].

Therefore, the proposed change does not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change reflects a physical alteration of the plant, but not a new or different type of equipment. The existing external Crossflow UFM System is being replaced with the Cameron/Caldon LEFM CheckPlus System, both of which are ultrasonic feedwater flow measuring systems. The NRC Ultrasonic Flow Meter Allegation Task Group believes the LEFM CheckPlus UFMs are inherently better able to recognize and are less sensitive to changes in the velocity profile than the external UFM designs (Reference 6.5 [of the application dated August 14, 2014]).

The proposed TS change is a change to the Administrative Controls section of the TS which does not change the meaning, intent, interpretation, or application of the TS. The physical plant change reflected by the TS change does alter the plant configuration by replacing one feedwater measurement system with another. However, this does not alter assumptions about previously analyzed accidents, or impact the operation or function of any plant equipment or systems. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of the proposed changes.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously analyzed.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The Caldon LEFM CheckPlus System has a mass flow uncertainty of less than +0.5%, which is bounded by the total mass flow uncertainty of +0.97% applied in the current STP operating license. The safety analysis acceptance criteria as stated in the UFSAR are not impacted by the change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed LEFM CheckPlus System has demonstrated better measurement accuracies than the differential pressure type instruments and provides on-line verification to ensure that the system is operating within its uncertainty bounds. The existing safety analyses remain bounding.

Therefore, the proposed changes do not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Steve Frantz, Esq., Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue NW., Washington, DC 20004.

NRC Branch Chief: Michael T. Markley.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–78, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia and Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland, 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov*, respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 20th day of November, 2014.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—General Target Schedule for Processing and Res+olving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28 ..	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53 ..	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Day	Event/activity
A + 60 ..	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2014–28062 Filed 12–1–14; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0255]

Review of Security Exemptions/ License Amendment Requests for Decommissioning Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft interim staff guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on its draft Interim Staff Guidance (ISG) NSIR/DSP–ISG–03, "Review of Security Exemptions/ License Amendment Requests for Decommissioning Nuclear Power Plants." This document would provide guidance for NRC staff to ensure clear and consistent reviews of a licensee's request for licensing actions and amendments, the use of alternative measures, and requests for exemption from security regulations for nuclear power reactors after permanent cessation of plant operations.

DATES: Submit comments by January 8, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0255. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Douglas Garner, Office of Nuclear Security and Incident Response, telephone: 301–287–0929, email: *Douglas.Garner@nrc.gov*; Margaret Cervera, Office of Nuclear Security and Incident Response, telephone: 301–287–3659, email: *Margaret.Cervera@nrc.gov*; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0255 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0255.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select *"ADAMS Public Documents"* and then select *"Begin Web-based ADAMS Search."* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The draft ISG is available in ADAMS under Accession No. ML14294A170.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0255 in the subject line of your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Currently, the power reactor physical security requirements in Part 73 of Title 10 of the *Code of Federal Regulations* (10 CFR) and the NRC security orders that apply to licensees of operating nuclear power reactors also apply to decommissioning power reactor licensees, since the 10 CFR part 50 license is retained after permanent cessation of operations and removal of fuel from the reactor vessel. The NRC recognizes that licensees that have permanently ceased operations and have no fuel in the reactor vessel present a significantly reduced risk to public health and safety than operating reactors. Because of the lower comparative risk from a decommissioning power reactor, licensees typically make a case for exemptions on the basis that the application of a specific regulation in the particular circumstance of decommissioning plants is not necessary to achieve the underlying purpose of the regulations and orders.

Licensees have historically used the NRC's existing license amendment and exemption processes to propose tailored security requirements for site-specific conditions at a decommissioning facility. Licensees must follow the process outlined in 10 CFR 73.5 when applying for exemptions from security regulations.

This draft ISG would provide guidance to NRC staff in processing exemption requests and license amendments from the security requirements for nuclear power reactors that are undergoing the process of decommissioning. Use of this draft ISG would result in consistent and timely reviews of requests for exemption from

certain security regulations. Annex 1, as noted in the description of Table 1 of this draft ISG, "Physical Security Licensing Actions for Decommissioning Nuclear Power Facilities," is a standalone Safeguards document. Annex 1 is an internal cross reference document containing site-specific security information regarding previous licensing actions for licensees undergoing decommissioning. This document will not be published or otherwise made available for comment.

The NRC staff is requesting public comment on the draft ISG. After the NRC considers any public comments, it will issue a **Federal Register** notice making a determination regarding a final ISG.

Dated at Rockville, Maryland, this 19th day of November, 2014.

For the Nuclear Regulatory Commission.

Christiana Lui,

Director, Division of Security Policy, Office of Nuclear Security and Incident Response.

[FR Doc. 2014–28418 Filed 12–1–14; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Cancellation Notice—OPIC December 3, 2014 Public Hearing

OPIC's Sunshine Act notice of its Public Hearing in Conjunction with each Board meeting was published in the **Federal Register** (79 FR 67209) on November 12, 2014. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing scheduled for 2 p.m., December 3, 2014 in conjunction with OPIC's December 11, 2014 Board of Directors meeting has been cancelled.

Contact person for information: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, or via email at *Connie.Downs@opic.gov.*

Dated: November 26, 2014.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 2014–28425 Filed 11–28–14; 11:15 am]

BILLING CODE 3210–01–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* December 2, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 25, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 99 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–9, CP2015–12.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–28296 Filed 12–1–14; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* December 2, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 25, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 100 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–10, CP2015–13.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–28300 Filed 12–1–14; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* December 2, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 25, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express Contract 20 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–12, CP2015–15.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–28297 Filed 12–1–14; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* December 2, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 25, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 101 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–11, CP2015–14.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–28298 Filed 12–1–14; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Rule 489 and Form F–N, SEC File No. 270–361, OMB Control No. 3235–0411.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) ("Paperwork Reduction Act"), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Rule 489 (17 CFR 230.489) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) requires foreign banks and foreign insurance companies and holding companies and finance subsidiaries of foreign banks and foreign insurance companies that are exempted from the definition of "investment company" by virtue of rules 3a–1 (17 CFR 270.3a–1), 3a–5 (17 CFR 270.3a–5), and 3a–6 (17 CFR 270.3a–6) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) to file Form F–N (17 CFR 239.43) to appoint an agent for service of process when making a public offering of securities in the United States. The information is collected so that the Commission and private plaintiffs may serve process on foreign entities in actions and administrative proceedings arising out of or based on the offer or sales of securities in the United States by such foreign entities.

During calendar year 2013, the Commission received a total of 16 responses on Form F–N from 14 entities. The Commission has previously estimated that the total annual burden associated with information collection and Form F–N preparation and submission is one hour per filing. Based on the Commission's experience with disclosure documents generally, the Commission continues to believe that this estimate is appropriate. Thus the estimated total annual burden for rule 489 and Form F–N is 16 hours.[1]

Estimates of the average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of rule 489 and Form F–N is mandatory to obtain the benefit of the exemption. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following Web site: *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Acting Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: November 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28310 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 16 responses per year × 1 hour per response = 16 hours per year.

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Rule 12f–3, SEC File No. 270–141, OMB Control No. 3235–0249.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in Rule 12f–3 (17 CFR 240.12f–3), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 12f–3 (the "Rule"), which was originally adopted in 1934 pursuant to Sections 12(f) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Act"), as modified in 1995, prescribes the information which must be included in applications for and notices of termination or suspension of unlisted trading privileges for a security as contemplated in Section 12(f)(4) of the Act. An application must provide, among other things, the name of the applicant; a brief statement of the applicant's interest in the question of termination or suspension of such unlisted trading privileges; the title of the security; the name of the issuer; certain information regarding the size of the class of security and its recent trading history; and a statement indicating that the applicant has provided a copy of such application to the exchange from which the suspension or termination of unlisted trading privileges are sought, and to any other exchange on which the security is listed or admitted to unlisted trading privileges.

The information required to be included in applications submitted pursuant to Rule 12f–3, is intended to provide the Commission with sufficient information to make the necessary findings under the Act to terminate or suspend by order the unlisted trading privileges granted a security on a national securities exchange. Without the Rule, the Commission would be unable to fulfill these statutory responsibilities.

The burden of complying with Rule 12f–3 arises when a potential respondent, having a demonstrable bona fide interest in the question of termination or suspension of the unlisted trading privileges of a security, determines to seek such termination or suspension. The staff estimates that each such application to terminate or suspend unlisted trading privileges requires approximately one hour to complete. Thus each potential respondent would incur on average one burden hour in complying with the Rule.

The Commission staff estimates that there could be as many as 18 responses annually and that each respondent's related cost of compliance with Rule 12f–3 would be $199.00, or, the cost of one hour of professional work of a paralegal needed to complete the application. The total annual related reporting cost for all potential respondents, therefore, is $3,582.00 (18 responses × $199.00/response).

Compliance with the application requirements of Rule 12f–3 is mandatory, though the filing of such applications is undertaken voluntarily. Rule 12f–3 does not have a record retention requirement *per se*. However, responses made pursuant to Rule 12f–3

are subject to the recordkeeping requirements of Rules 17a–3 and 17a–4 of the Act. Information received in response to Rule 12f–3 shall not be kept confidential; the information collected is public information.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington DC, 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: November 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28307 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form 2–E under Rule 609, SEC File No. 270–222, OMB Control No. 3235–0233.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Rule 609 (17 CFR 230.609) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) requires small business investment companies and business development companies that have engaged in offerings of securities that are exempt from registration pursuant to Regulation E under the Securities Act of 1933 (17 CFR 230.601 to 610a) to report semi-annually on Form 2–E (17 CFR 239.201) the progress of the offering. The form solicits information such as the dates an offering commenced and was completed (if completed), the number of shares sold and still being offered, amounts received in the offering, and expenses and underwriting discounts incurred in the offering. The information provided on Form 2–E assists the staff in monitoring the progress of the offering and in determining whether the offering has stayed within the limits set for an offering exempt under Regulation E.

There has not been a Form 2–E filing since calendar year 2010, when there was one filing of Form 2–E by one respondent. The Commission has previously estimated that the total annual burden associated with information collection and Form 2–E preparation and submission is four hours per filing. Although there have been no filings made under this rule since 2010, we are requesting one annual response and an annual burden of one hour for administrative purposes.

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. The collection of information under rule 609 and Form 2–E is mandatory. The information provided under rule 609 and Form 2–E will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Acting Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Comments must be submitted to OMB within 30 days of this notice.

Dated: November 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28311 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Mutual Fund Interactive Data, SEC File No. 270–580, OMB Control No. 3235–0642.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Open-end management investment companies ("funds") are required to submit to the Commission information included in their registration statements, or information included in or amended by post-effective amendments thereto, in response to Items 2, 3, and 4 ("risk/return summary information") of Form N–1A (17 CFR 239.15A and 274.11A) in interactive data format and to post it on their Web sites, if any, in interactive data form. In addition, funds are required to submit an interactive data file to the Commission for any form of prospectus filed pursuant to rule 497(c) or (e) (17 CFR 230.497) under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a *et seq.*) that includes risk/return summary information that varies from the registration statement and to post the interactive data file on their Web sites, if any.

The title for the collection of information for submitting risk/return summary information in interactive data format is "Mutual Fund Interactive Data." This collection of information relates to regulations and forms adopted under the Securities Act, the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), and the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) that set forth disclosure requirements for funds and other issuers. The purpose of the

Mutual Fund Interactive Data requirements is to make risk/return summary information easier for investors to analyze and to assist in automating regulatory filings and business information processing.

Funds are required to file an initial registration statement on Form N–1A and to update that registration statement annually. The Commission estimates that each fund will submit one interactive data document as an exhibit to a registration statement or a post-effective amendment thereto on Form N–1A that includes or amends information provided in response to Items 2, 3 or 4 annually. In addition, based on a review by Commission staff of Mutual Fund Interactive Data submissions in calendar year 2013, the Commission estimates that 36% of funds will provide risk/return summary information as interactive data in additional filings submitted pursuant to rule 485(b) (17 CFR 230.485(b)) or rule 497 under the Securities Act annually.

The Commission estimates that the total annual hour burden associated with tagging risk/return summary information is approximately 11 hours. Based on estimates of 10,559 funds each submitting one interactive data document as an exhibit to a registration statement or post-effective amendment thereto and 3,801 funds submitting an additional interactive data document as an exhibit to a filing pursuant to rule 485(b) or rule 497, each incurring 11 hours per year on average, the Commission estimates that, in the aggregate, the tagging of risk/return summary information will result in approximately 157,960 annual burden hours. In addition, the Commission estimates that funds will require an average of approximately one burden hour to post interactive data to their Web sites. Based on estimates of 10,559 funds each posting one interactive data document as an exhibit to a registration statement or post-effective amendment thereto and 3,801 funds posting an additional interactive data document as an exhibit to a filing pursuant to rule 485(b) or rule 497, each incurring one burden hour per year on average, the Commission estimates that, in the aggregate, Mutual Fund Interactive Data Web site posting requirements will result in approximately 14,360 annual burden hours.

The Commission estimates that the average cost burden per fund is $890 per year. Based on the estimate of 10,559 funds using software and/or consulting services at an annual cost of $890, the Commission estimates that, in the aggregate, the total external costs to the industry will be approximately $9.4 million.

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms.

The collection of information under the Mutual Fund Interactive Data requirements is mandatory for all funds. Responses to the disclosure requirements will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: November 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28312 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 12f–1; SEC File No. 270–139, OMB Control No. 3235–0128.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information provided for in Rule 12f–1 (17 CFR 240.12f–1), under the Securities Exchange Act of 1934 ("Act") (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 12f–1 (the "Rule"), originally adopted in 1934 pursuant to Sections 12(f) and 23(a) of the Act, as modified in 1995 and 2005, sets forth the information which an exchange must include in an application to reinstate its ability to extend unlisted trading privileges to any security for which such unlisted trading privileges have been suspended by the Commission, pursuant to Section 12(f)(2)(A) of the Act. An application must provide the name of the issuer, the title of the security, the name of each national securities exchange, if any, on which the security is listed or admitted to unlisted trading privileges, whether transaction information concerning the security is reported pursuant to an effective transaction reporting plan contemplated by Rule 601 of Regulation NMS, the date of the Commission's suspension of unlisted trading privileges in the security on the exchange, and any other pertinent information. Rule 12f–1 further requires a national securities exchange seeking to reinstate its ability to extend unlisted trading privileges to a security to indicate that it has provided a copy of such application to the issuer of the security, as well as to any other national securities exchange on which the security is listed or admitted to unlisted trading privileges.

The information required by Rule 12f–1 enables the Commission to make the necessary findings under the Act prior to granting applications to reinstate unlisted trading privileges. This information is also made available to members of the public who may wish to comment upon the applications. Without the Rule, the Commission would be unable to fulfill these statutory responsibilities.

There are currently 18 national securities exchanges subject to Rule 12f–1. The burden of complying with Rule 12f–1 arises when a potential respondent seeks to reinstate its ability to extend unlisted trading privileges to any security for which unlisted trading privileges have been suspended by the Commission, pursuant to Section 12(f)(2)(A) of the Act. The staff estimates that each application would require approximately one hour to complete.

Thus each potential respondent would incur on average one burden hour in complying with the Rule.

The Commission staff estimates that there could be as many as 18 responses annually and that each respondent's related cost of compliance with Rule 12f–1 would be $199.00, or, the cost of one hour of professional work of a paralegal needed to complete the application. The total annual related reporting cost for all potential respondents, therefore, is $3,582 (18 responses × $199.00 per response).

Compliance with Rule 12f–1 is mandatory. Rule 12f–1 does not have a record retention requirement *per se.* However, responses made pursuant to Rule 12f–1 are subject to the recordkeeping requirements of Rules 17a–3 and 17a–4 of the Act. Information received in response to Rule 12f–1 shall not be kept confidential; the information collected is public information.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: November 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28306 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 12d2–1; SEC File No. 270–98, OMB Control No. 3235–0081.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information provided for in Rule 12d2–1(17 CFR 240.12d2–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78b *et seq.*) ("Act"). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

On February 12, 1935, the Commission adopted Rule 12d2–1 [1] ("Suspension of Trading") to establish the procedures by which a national securities exchange may suspend from trading a security that is listed and registered on the exchange under Section 12(d) of the Act.[2] Under Rule 12d2–1, an exchange is permitted to suspend from trading a listed security in accordance with its rules, and must promptly notify the Commission of any such suspension, along with the effective date and the reasons for the suspension.

Any such suspension may be continued until such time as the Commission may determine that the suspension is designed to evade the provisions of Section 12(d) of the Act and Rule 12d2–2 thereunder.[3] During the continuance of such suspension under Rule 12d2–1, the exchange is required to notify the Commission promptly of any change in the reasons for the suspension. Upon the restoration to trading of any security suspended under Rule 12d2–1, the exchange must notify the Commission promptly of the effective date of such restoration.

The trading suspension notices serve a number of purposes. First, they inform the Commission that an exchange has suspended from trading a listed security or reintroduced trading in a previously suspended security. They also provide the Commission with information necessary for it to determine that the suspension has been accomplished in accordance with the rules of the exchange, and to verify that the exchange has not evaded the requirements of Section 12(d) of the Act and Rule 12d2–2 thereunder by improperly employing a trading suspension. Without Rule 12d2–1, the Commission would be unable to fully implement these statutory responsibilities.

There are 18 national securities exchanges that are subject to Rule 12d2–1. The burden of complying with Rule 12d2–1 is not evenly distributed among the exchanges, however, since there are many more securities listed on the New York Stock Exchange, Inc., the NASDAQ Stock Market, and the NYSEMKT LLC than on the other exchanges.[4] However, for purposes of this filing, the Commission staff has assumed that the number of responses is evenly divided among the exchanges. There are approximately 1,600 responses under Rule 12d2–1 for the purpose of suspension of trading from the national securities exchanges each year, and the resultant aggregate annual reporting hour burden would be, assuming on average one-half reporting hour per response, 800 annual burden hours for all exchanges. The related internal compliance costs associated with these burden hours are $159,200 per year.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

[1] *See* Securities Exchange Act Release No. 98 (February 12, 1935).

[2] *See* Securities Exchange Act Release No. 7011 (February 5, 1963), 28 FR 1506 (February 16, 1963).

[3] Rule 12d2–2 prescribes the circumstances under which a security may be delisted from an exchange and withdrawn from registration under Section 12(b) of the Act, and provides the procedures for taking such action.

[4] In fact, some exchanges do not file any trading suspension reports in a given year.

Please direct your written comments to: Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: November 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28305 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, Washington, DC 20549–2736.

Extension:

Rule 15c1–5, SEC File No. 270–422, OMB Control No. 3235–0471.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 15c1–5 (17 CFR 240.15c1–5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15c1–5 states that any broker-dealer controlled by, controlling, or under common control with the issuer of a security that the broker-dealer is trying to sell to or buy from a customer must give the customer written notification disclosing the control relationship at or before completion of the transaction. The Commission estimates that 223 respondents collect information annually under Rule 15c1–5 and that each respondent would spend approximately 10 hours per year collecting this information (2,230 hours in aggregate). There is no retention period requirement under Rule 15c1–5. This Rule does not involve the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or by sending an email to *PRA_Mailbox@sec.gov.* Comments must be submitted within 30 days of this notice.

Dated: November 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28308 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 22c–2; SEC File No. 270–541, OMB Control No. 3235–0620.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 22c–2 (17 CFR 270.22c–2) under the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Investment Company Act" or "Act") requires the board of directors (including a majority of independent directors) of most registered open-end investment companies ("funds") to either approve a redemption fee of up to two percent or determine that imposition of a redemption fee is not necessary or appropriate for the fund. Rule 22c–2 also requires a fund to enter into written agreements with their financial intermediaries (such as broker-dealers and retirement plan administrators) under which the fund, upon request, can obtain certain shareholder identity and trading information from the intermediaries. The written agreement must also allow the fund to direct the intermediary to prohibit further purchases or exchanges by specific shareholders that the fund has identified as being engaged in transactions that violate the fund's market timing policies. These requirements enable funds to obtain the information that they need to monitor the frequency of short-term trading in omnibus accounts and enforce their market timing policies.

The rule includes three "collections of information" within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[1] First, the rule requires boards to either approve a redemption fee of up to two percent or determine that imposition of a redemption fee is not necessary or appropriate for the fund. Second, funds must enter into information sharing agreements with all of their "financial intermediaries" [2] and maintain a copy of the written information sharing agreement with each intermediary in an easily accessible place for six years. Third, pursuant to the information sharing agreements, funds must have systems that enable them to request frequent trading information upon demand from their intermediaries, and to enforce any restrictions on trading required by funds under the rule.

The collections of information created by rule 22c–2 are necessary for funds to effectively assess redemption fees, enforce their policies in frequent trading, and monitor short-term trading, including market timing, in omnibus accounts. These collections of information are mandatory for funds that redeem shares within seven days of purchase. The collections of information also are necessary to allow Commission staff to fulfill its examination and oversight responsibilities.

Rule 22c–2(a)(1) requires the board of directors of all registered investment companies and series thereof (except for money market funds, ETFs, or funds that affirmatively permit short-term trading of its securities) to approve a redemption fee for the fund, or instead make a determination that a redemption fee is either not necessary or appropriate

[1] 44 U.S.C. 3501–3520.

[2] The rule defines a Financial Intermediary as: (i) Any broker, dealer, bank, or other person that holds securities issued by the fund in nominee name; (ii) a unit investment trust or fund that invests in the fund in reliance on section 12(d)(i)(E) of the Act; and (iii) in the case of a participant directed employee benefit plan that owns the securities issued by the fund, a retirement plan's administrator under section 316(A) of the Employee Retirement Security Act of 1974 (29 U.S.C. 1002(16)(A) or any person that maintains the plans' participant records. Financial Intermediary does not include any person that the fund treats as an individual investor with respect to the fund's policies established for the purpose of eliminating or reducing any dilution of the value of the outstanding securities issued by the fund. Rule 22c–2(c)(1).

for the fund. Commission staff understands that the boards of all funds currently in operation have undertaken this process for the funds they currently oversee, and the rule does not require boards to review this determination periodically once it has been made. Accordingly, we expect that only boards of newly registered funds or newly created series thereof would undertake this determination. Commission staff estimates that approximately 117 funds or series thereof (excluding money market funds and ETFs) are newly formed each year and would need to make this determination.

Based on conversations with fund representatives,[3] Commission staff estimates that it takes 2 hours of the board's time, as a whole, (at a rate of $4000 per hour)[4] to approve a redemption fee or make the required determination on behalf of all series of the fund. In addition, Commission staff estimates that it takes compliance personnel of the fund (at a rate of $64 per hour)[5] 8 hours to prepare trading, compliance, and other information regarding the fund's operations to enable the board to make its determination, and takes internal compliance counsel of the fund (at a rate of $334 per hour) 3 hours to review this information and present its recommendations to the board. Therefore, for each fund board that undertakes this determination process, Commission staff estimates it expends 13 hours[6] at a cost of $9514.[7] As a result, Commission staff estimates that the total time spent for all funds on this process is 884 hours at a cost of $646,952.[8]

B. Information Sharing Agreements

Rule 22c–2(a)(2) requires a fund to enter into information-sharing agreements with each of its financial intermediaries. Commission staff understands that all currently registered funds have already entered into such agreements with their intermediaries. Funds enter into new relationships with intermediaries from time to time, however, which requires them to enter into new information sharing agreements. Commission staff understands that, in general, funds enter into information-sharing agreement when they initially establish a relationship with an intermediary, which is typically executed as an addendum to the distribution agreement. The Commission staff understands that most shareholder information agreements are entered into by the fund group (a group of funds with a common investment adviser), and estimates that there are currently 801 currently active fund groups.[9] Commission staff estimates that, on average, each active fund group enters into relationships with 3 new intermediaries each year. Commission staff understands that funds generally use a standard information sharing agreement, drafted by the fund or an outside entity, and modifies that agreement according to the requirements of each intermediary. Commission staff estimates that negotiating the terms and entering into an information sharing agreement takes a total of 4 hours of attorney time (at a rate of $380) per intermediary (representing 2.5 hours of fund attorney time and 1.5 hours of intermediary attorney time). Accordingly, Commission staff estimates that it takes 12 hours at a cost of $4560 each year[10] to enter into new information sharing agreements, and all existing market participants incur a total of 9612 hours at a cost of $3,652,560.[11]

In addition, newly created funds advised by new entrants (effectively new fund groups) must enter into information sharing agreements with all of their financial intermediaries. Commission staff estimates that there are 58 new fund groups that form each year that will have to enter into information sharing agreements with each of their intermediaries.[12] Commission staff estimates that fund groups formed by new advisers typically have relationships with significantly fewer intermediaries than existing fund groups, and estimates that new fund groups will typically enter into 100 information sharing agreements with their intermediaries when they begin operations.[13] As discussed previously, Commission staff estimates that it takes 4 hours of attorney time (at a rate of $380) per intermediary to enter into information sharing agreements. Therefore, Commission staff estimates that each newly formed fund group will incur 400 hours of attorney time at a cost of $152,000,[14] and all newly formed fund groups will incur a total of 23,200 hours at a cost of $8,816,000 to enter into information sharing agreements with their intermediaries.[15]

Rule 22c–2(a)(3) requires funds to maintain records of all information-sharing agreements for 6 years in an easily accessible place. Commission staff understands that most shareholder information agreements are stored at the fund group level and estimates that there are currently 801 fund groups.[16] Commission staff understands that information-sharing agreements are generally included as addendums to distribution agreements between funds and their intermediaries, and that these agreements would be stored as required by the rule as a matter of ordinary business practice. Therefore, Commission staff estimates that maintaining records of information-sharing agreements requires 10 minutes of time spent by a general clerk (at a rate of $57)[17] per fund, each year. Accordingly, Commission staff estimates that all funds will incur 133.50 hours at a cost of $7609.50[18] in complying with the recordkeeping requirement of rule 22c–2(a)(3).

Therefore, Commission staff estimates that to comply with the information

[3] Unless otherwise stated, estimates throughout this analysis are derived from a survey of funds and conversations with fund representatives.

[4] The estimate of $4000 per hour for the board's time as a whole is based on conversations with representatives of funds and their legal counsel.

[5] Unless otherwise stated, all cost estimates for personnel time are derived from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

[6] This calculation is based on the following estimates: (2 hours of board time + 3 hours of internal compliance counsel time + 8 hours of compliance clerk time = 13 hours).

[7] This calculation is based on the following estimates: ($8000 ($4000 board time × 2 hours = $8000) + $512 ($64 compliance time × 8 hours = $512) + $1002 ($334 × 3 hours attorney time = $1002) = $9514).

[8] This calculation is based on the following estimates: (13 hours × 68 funds = 884 hours); ($9514 × 68 funds = $646,952).

[9] ICI, 2014 Investment Company Fact Book at Fig 1.7 (2014) (*http://www.ici.org/pdf/2014_factbook.pdf*).

[10] This estimate is based on the following calculations: (4 hours × 3 new intermediaries = 12 hours); (12 hours × $380 = $4560).

[11] This estimate is based on the following calculations: (12 hours × 801 fund groups = 9612 hours); (9612 hours × $380 = $3,652,560).

[12] ICI, 2014 Investment Company Fact Book at Fig 1.7 (2014) (*http://www.ici.org/pdf/2014_factbook.pdf*).

[13] Commission staff understands that funds generally use a standard information sharing agreement, drafted by the fund or an outside entity, and then modifies that agreement according to the requirements of each intermediary.

[14] This estimate is based on the following calculations: (4 hours × 100 intermediaries = 400 hours); (400 hours × $380 = $152,000).

[15] This estimate is based on the following calculations: (58 fund groups × 400 hours = 23,200 hours) ($380 × 23,200 = $8,816,000).

[16] ICI, 2014 Investment Company Fact Book at Fig 1.7 (2014) (*http://www.ici.org/pdf/2014_factbook.pdf*).

[17] $57 hour figure for a general clerk is derived from SIFMA's Office Salaries in the Securities Industry 2013 modified to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits, and overhead.

[18] This estimate is based on the following calculations: (10 minutes × 801 fund groups = 8010 minutes); (8010 minutes/60 = 133.5 hours); (133.5 hours × $57 = $7609.50).

sharing agreement requirements of rule 22c–2(a)(2) and (3), it requires a total of 32,945.5 hours at a cost of $12,476,169.50.[19]

The Commission staff estimates that on average, each fund group requests shareholder information once a week, and gives instructions regarding the restriction of shareholder trades every day, for a total of 417 responses related to information sharing systems per fund group each year, and a total 334,017 responses for all fund groups annually.[20] In addition, as described above, the staff estimates that funds make 68 responses related to board determinations, 2403 responses related to new intermediaries of existing fund groups, 5800 responses related to new fund group information sharing agreements, and 801 responses related to recordkeeping, for a total of 9072 responses related to the other requirements of rule 22c–2. Therefore, the Commission staff estimates that the total number of responses is 343,164 (334,017 + 9147 = 343,164).

The Commission staff estimates that the total hour burden for rule 22c–2 is 33,829.5 hours at a cost of $13,123,121.50.[21] Responses provided to the Commission will be accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program. Responses provided in the context of the Commission's examination and oversight program are generally kept confidential. Complying with the information collections of rule 22c–2 is mandatory for funds that redeem their shares within 7 days of purchase. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: November 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28309 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

[19] This estimate is based on the following calculations: (9612 hours + 23,200 hours + 133.5 hours = 32,945.5 hours); ($3,652,560 + $8,816,000 + $7609.50 = $12,476,169.50).

[20] This estimate is based on the following calculations: (52 + 365 = 417); (417 × 801 fund groups = 334,017).

[21] This estimate is based on the following calculations: (884 hours (board determination) + 32,945.5 hours (information sharing agreements) = 33,829.5 total hours); ($12,476,169.50 + $646,952 = $13,123,121.50).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31359; 812–14390

Banc of America Mortgage Securities, Inc., et al.; Notice of Application and Temporary Order

November 25, 2014.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 ("Act").

SUMMARY: Applicants have received a temporary order (the "Temporary Order") exempting them from section 9(a) of the Act, with respect to injunctions entered against Bank of America, N.A. ("BANA"), Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), and Banc of America Mortgage Securities, Inc. ("BOAMS," and, together with BANA and Merrill Lynch, the "Respondents") on November 25, 2014 by the United States District Court for the Western District of North Carolina (the "District Court") until the Commission takes final action on an application for a permanent order (the "Permanent Order," and with the Temporary Order, the "Orders"). Applicants also have applied for a Permanent Order.

Applicants: BofA Advisors, LLC ("BoA Advisors"), BofA Distributors, Inc. ("BoA Distributors"), KECALP Inc. ("KECALP"), Merrill Lynch Ventures, LLC ("Ventures"), Merrill Lynch Global Private Equity, Inc. ("MLGPE"), and Merrill Lynch Alternative Investments LLC ("MLAI") (each, an "Applicant" and collectively, the "Applicants"), and solely for purposes of agreeing to condition 3 of the application, the Respondents.

DATES: *Filing Date:* The application was filed on November 25, 2014.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 22, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: BOAMS, 21 North Tryon Street, Charlotte, NC 28255; BANA and Merrill Lynch, Bank of America Tower, One Bryant Park, New York, NY 10036; BoA Advisors and BoA Distributors, 100 Federal Street, Boston, MA 02110; KECALP and Ventures, 135 South LaSalle Street, Chicago, IL 60604; MLGPE, 135 South La Salle Street, Suite 811, Chicago, IL 60603; and MLAI, 4 World Financial Center, 250 Vesey Street, 11th Floor, New York, NY 10080.

FOR FURTHER INFORMATION CONTACT: David J. Marcinkus, Senior Counsel, at 202–551–6882 or Mary Kay Frech, Branch Chief, at 202–551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a temporary order and summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm*, or by calling (202) 551–8090.

Applicants' Representations

1. Bank of America Corporation ("BAC"), a corporation organized under the laws of Delaware, is a publicly traded company headquartered in Charlotte, North Carolina. As noted below, each of the Respondents and each of the Applicants is a direct or indirect wholly-owned subsidiary of BAC. BANA is a nationally chartered banking association headquartered in Charlotte, North Carolina that conducts retail, trust and commercial banking operations. BANA is an indirect wholly-

owned subsidiary of BAC. BOAMS, a corporation organized under the laws of Delaware, is a direct wholly-owned subsidiary of BANA. Merrill Lynch, a corporation organized under the laws of Delaware, is an indirect wholly-owned subsidiary of BAC. Merrill Lynch, directly and through its subsidiaries and affiliates, provides investment, financing, advisory, insurance, banking and related products and services, and is registered as a broker-dealer under the Securities Exchange Act of 1934, and as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"). Merrill Lynch does not currently engage in Fund Service Activities (defined below), but it may do so in the future.

2. Each of the Applicants serves either as investment adviser (as defined in section 2(a)(20) of the Act) to investment companies registered under the Act or series of such companies ("Funds") or employees' securities companies ("ESCs"), or as principal underwriter (as defined in section 2(a)(29) of the Act) to open-end management investment companies registered under the Act ("Open-End Funds"). BoA Advisors, a limited liability company organized under the laws of Delaware, is registered as an investment adviser under the Advisers Act. BoA Advisors is a direct wholly-owned subsidiary of BofA Global Capital Management Group, LLC, which is in turn a direct wholly-owned subsidiary of BANA. BoA Distributors, a corporation organized under the laws of Massachusetts, is an indirect wholly-owned subsidiary of BoA Advisors. BoA Distributors is a limited purpose broker-dealer registered with the Commission. KECALP, a corporation organized under the laws of Delaware, is an indirect wholly-owned subsidiary of BAC. Ventures, a limited liability company organized under the laws of Delaware, is an indirect wholly-owned subsidiary of BAC. MLGPE, a corporation organized under the laws of Delaware, is registered as an investment adviser under the Advisers Act. MLGPE is an indirect wholly-owned subsidiary of BAC. MLAI, a limited liability company organized under the laws of Delaware, is registered as an investment adviser under the Advisers Act. MLAI is an indirect wholly-owned subsidiary of BAC.

3. While no existing company of which the Respondents is an "affiliated person" within the meaning of section 2(a)(3) of the Act ("Affiliated Person"), other than the Applicants, currently serves as an investment adviser or depositor of any Fund or ESC or investment company that has elected to be treated as a business development company under the Act, or principal underwriter for any Open-End Fund, unit investment trust registered under the Act, or face-amount certificate company registered under the Act (such activities, collectively, ("Fund Service Activities"), Applicants request that any relief granted also apply to any existing company of which any of the Respondents is an Affiliated Person and to any other company of which any of the Respondents may become an Affiliated Person in the future (together with Applicants and Merrill Lynch, the "Covered Persons") with respect to any activity contemplated by section 9(a) of the Act.

4. On August 6, 2013, the Commission filed a complaint (the "Complaint") against the Respondents in the District Court in a civil action captioned *Securities and Exchange Commission* v. *Bank of America, N.A., et al.* (the "BOAMS Action").[1] The Complaint alleges violations of sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 (the "Securities Act") by Respondents arising out of an offering of prime residential mortgage-backed securities ("RMBS") in 2008 known as BOAMS 2008–A. The Complaint also alleges that Merrill Lynch and BOAMS violated section 5(b)(1) of the Securities Act by disclosing certain data regarding BOAMS 2008–A to some, but not all, investors, as well as by failing to file such data with the Commission.

5. In settlement of the BOAMS Action, Respondents submitted executed Consents of Defendants BANA, Merrill Lynch and BOAMS (the "Consents"). In the Consents, Respondents agreed to the entry of a final judgment, without admitting or denying the allegations contained in the Complaint (other than those relating to the jurisdiction of the District Court). On November 25, 2014 the District Court entered a judgment against Respondents (the "Judgment")[2] that enjoined Respondents from violating, directly or indirectly, sections 17(a)(2), 17(a)(3) and 5(b)(1)[3] of the Securities Act (the "Injunctions").

Applicants' Legal Analysis

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of a security, or in connection with activities as an underwriter, from performing Fund Service Activities. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(2) applicable to a company, any Affiliated Person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines "affiliated person" to include, among others: (a) Any person directly or indirectly owning, controlling, or holding with power to vote, five per centum or more of the outstanding voting securities of such other person; (b) any person five per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; and (c) any person directly or indirectly controlling, controlled by, or under common control, with the other person. Applicants state that, taken together, sections 9(a)(2) and 9(a)(3) would have the effect of precluding Applicants and Covered Persons from engaging in Fund Service Activities upon the entry of the Injunctions because the Respondents are Affiliated Persons of each Applicant and Covered Person.

2. Section 9(c) of the Act provides that, upon application, the Commission shall by order grant an exemption from the disqualification provisions of section 9(a) of the Act, either unconditionally or on an appropriate temporary or other conditional basis, to any person if that person establishes that: (i) The prohibitions of section 9(a), as applied to the person, are unduly or disproportionately severe or (ii) the conduct of the person has been such as not to make it against the public interest or the protection of investors to grant the exemption. Applicants have filed an application pursuant to section 9(c) seeking a Temporary Order and a Permanent Order exempting them and other Covered Persons from the disqualification provisions of section 9(a) of the Act. The Applicants and other Covered Persons may, if the relief is granted, in the future act in any of the capacities contemplated by section 9(a) of the Act subject to the conditions of the Temporary Order and the Permanent Order.

3. Applicants believe they meet the standard for exemption specified in section 9(c) of the Act. Applicants state that the prohibitions of section 9(a) as applied to them would be unduly and disproportionately severe and that the conduct of Applicants has been such as not to make it against the public interest

[1] The conduct alleged in the Complaint is referred to herein as the "Conduct."

[2] *Securities and Exchange Commission* v. *Bank of America*, N.A., et al., Civil Action No. 3:13–cv–447 (W.D.N.C. Nov. 25, 2014).

[3] BANA was not named as a defendant in connection with the Commission's section 5(b)(1) claim and therefore did not consent to the entry of an injunction under that section.

or the protection of investors to grant the exemption from section 9(a).

4. Applicants state that the Conduct did not involve any of the Applicants engaging in Fund Service Activities.[4] Applicants also state that the Conduct did not involve any Fund or ESC with respect to which Applicants engaged in Fund Service Activities. In addition, Applicants state that none of the Funds or ESCs with respect to which Applicants provide Fund Service Activities purchased or held BOAMS 2008–A.

5. Applicants and Respondents state that (a) none of the current directors, officers or employees of Applicants had any involvement in the Conduct; (b) none of the current directors, officers or employees of Respondents had any responsibility for the Conduct; (c) no current or former employee of Respondents who previously has been or who subsequently may be identified by Respondents or any U.S. regulatory or enforcement agencies as having been responsible for the Conduct will be an officer, director or employee of any Covered Person; and (d) the employees of Respondents who were identified as having been responsible for the Conduct have had no, and will not have any involvement in the provision of Fund Service Activities on behalf of Applicants or other Covered Persons. Applicants assert that because the personnel of Applicants did not have any involvement in the Conduct, shareholders of the Funds and ESCs were not affected any differently than if those Funds and ESCs had received services from any investment adviser or principal underwriter that was not affiliated with Respondents.

6. Applicants submit that section 9(a) should not operate to bar them from serving the Funds or ESCs and their shareholders in the absence of improper activities relating to their Fund Service Activities. Applicants state that the section 9(a) disqualification would result in material economic losses for the Funds and ESCs to which Applicants provide Funds Service Activities, and such Funds' operations would be disrupted, as they sought to engage new advisers and distributors. Applicants assert that these effects would be unduly severe given the Applicants' lack of involvement in the Conduct. Moreover, Applicants state that the Respondents have taken remedial actions to address the Conduct, as outlined in the application. Thus, Applicants believe that granting the exemption from section 9(a), as requested, would be consistent with the public interest and the protection of investors.

7. Applicants state that (a) inability of the Adviser Applicants [5] to continue providing investment advisory services to Funds would result in the Funds and their shareholders facing potential hardship and (b) the inability of BoA Distributors to continue to serve as principal underwriters to the Open-End Funds would similarly result in potential hardship to the Open-End Funds and their shareholders. Applicants state that they will distribute to the board of trustees/directors of the Funds (the "Boards") written materials describing the circumstances alleged in the BOAMS Action and any impact on the Funds, and the application. The written materials will include an offer to discuss the materials at an in-person meeting with each Board for which Applicants provide Fund Service Activities, including the directors who are not "interested persons" of the Fund as defined in section 2(a)(19) of the Act, and their independent legal counsel as defined in rule 0–1(a)(6) under the Act. Applicants state that they will provide the Boards with the information concerning the BOAMS Action and the application that is necessary for those Funds to fulfill their disclosure and other obligations under the federal securities laws and will provide them a copy of the Judgment as entered by the District Court.

8. Applicants state that if the Applicants were barred under section 9(a) of the Act from engaging in Fund Service Activities and were unable to obtain the requested exemption, the effect on their businesses and employees would be severe because they have committed substantial capital and other resources to establishing an expertise in the provision of Fund Service Activities. Applicants further state that prohibiting them from providing Fund Service Activities would not only adversely affect their business, but would also adversely affect their employees who are involved in those activities. Applicants state that many of these employees could experience significant difficulties in finding alternative fund-related employment.

9. Applicants state that Applicants and certain other affiliated persons of Applicants have previously received orders under section 9(c) of the Act, as the result of conduct that triggered section 9(a), as described in greater detail in the application.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Any temporary exemption granted pursuant to the application will be without prejudice to, and will not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including, without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

2. Each Applicant and Covered Person will adopt and implement policies and procedures reasonably designed to ensure that it will comply with the terms and conditions of the Orders within 60 days of the date of the Permanent Order.

3. Respondents will comply in all material respects with the material terms and conditions of the Orders.

4. Applicants will provide written notification to the Chief Counsel of the Commission's Division of Investment Management with a copy to the Chief Counsel of the Commission's Division of Enforcement of a material violation of the terms and conditions of the Orders and the Judgment within 30 days of discovery of the material violation.

Temporary Order

The Commission has considered the matter and finds that Applicants have made the necessary showing to justify granting a temporary exemption.

Accordingly,

It is hereby ordered, pursuant to section 9(c) of the Act, that Applicants and any other Covered Persons are granted a temporary exemption from the provisions of section 9(a), solely with respect to the Injunctions, subject to the representations and conditions in the application, from November 25, 2014, until the Commission takes final action on their application for a permanent order.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28314 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

[4] Applicants state that none of the Respondents currently serve in any of the capacities described in section 9(a) of the Act, and BANA and BOAMS will not do so in the future. Merrill Lynch has engaged in Fund Service Activities in the past (although it ceased doing so by the end of 2010), and it may do so in the future.

[5] The "Adviser Applicants" are BoA Advisors, KECALP, Ventures, MLGPE, and MLAI.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31346; 812–14292]

ETF Securities Advisors LLC, et al.; Notice of Application

November 24, 2014.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

Summary of Application: Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares ("Shares") redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value ("NAV"); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

Applicants: ETF Securities Advisors LLC ("ETF Securities"), ETFS Trust ("Trust") and ALPS Distributors, Inc. ("ALPS").

Filing Dates: The application was filed on March 18, 2014, and amended on July 30, 2014 and November 4, 2014.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 19, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: ETF Securities and the Trust: 48 Wall Street, New York, NY 10005; ALPS, P.O. Box 328, Denver, CO 80201.

FOR FURTHER INFORMATION CONTACT: Aidan H. O'Connor, Senior Counsel, at (202) 551–6808, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a Delaware statutory trust and will register under the Act as an open-end management investment company with multiple series. Each series will operate as an exchange traded fund ("ETF").

2. ETF Securities will be the investment adviser to the initial series of the Trust ("Initial Funds"). Each Adviser (as defined below) will be registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a "Sub-Adviser"). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust will enter into a distribution agreement with one or more distributors. Each distributor for a Fund will be a broker-dealer ("Broker") registered under the Securities Exchange Act of 1934 ("Exchange Act") and will act as distributor and principal underwriter ("Distributor") for one or more of the Funds. No Distributor will be affiliated with any national securities exchange, as defined in Section 2(a)(26) of the Act ("Exchange"). The Distributor for each Fund will comply with the terms and conditions of the requested order. ALPS, a Colorado corporation and broker-dealer registered under the Exchange Act, will act as the initial Distributor of the Funds.

4. Applicants request that the order apply to the Initial Funds and any additional series of the Trust, and any other open-end management investment company or series thereof, that may be created in the future ("Future Funds" and together with the Initial Funds, "Funds"), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an "Underlying Index"). Any Future Fund will (a) be advised by ETF Securities or an entity controlling, controlled by, or under common control with ETF Securities (each, an "Adviser") and (b) comply with the terms and conditions of the application.[1]

5. Each Fund will hold certain securities, currencies, other assets, and other investment positions ("Portfolio Holdings") selected to correspond generally to the performance of its Underlying Index. The Underlying Indexes will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised solely of foreign and domestic, or solely foreign, equity and/or fixed income securities ("Foreign Funds").

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index ("Component Securities") and TBA Transactions,[2] and in the case of Foreign Funds, Component Securities and Depositary Receipts [3] representing

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] A "to-be-announced transaction" or "TBA Transaction" is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[3] Depositary receipts representing foreign securities ("Depositary Receipts") include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a "depositary bank") and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid

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Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. Each Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies ("130/30 Funds") or other long/short investment strategies ("Long/Short Funds"). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index[4] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site ("Web site") by making available the Fund's Portfolio Holdings (defined below) before the commencement of trading of Shares on the Listing Exchange (defined below).[5] The information provided on the Web site will be formatted to be reader-friendly.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

9. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an "Index Provider") or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[6] A "Self-Indexing Fund" is a Fund for which an affiliated person, as defined in section 2(a)(3) of the Act ("Affiliated Person"), or an affiliated person of an Affiliated Person ("Second-Tier Affiliate"), of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an "Affiliated Index Provider") will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an "Affiliated Index").[7] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of a Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

10. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated.

11. Applicants propose that each Self-Indexing Fund will post on its Web site, on each day the Fund is open, including any day when it satisfies redemption requests as required by Section 22(e) of the Act (a "Business Day"), before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the Portfolio Holdings that will form the basis for the Fund's calculation of its NAV at the end of the Business Day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will also provide an additional mechanism for addressing any such potential conflicts of interest.

12. In addition, Applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[8]

13. Each Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, ETF

or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[4] Underlying Indexes that include both long and short positions in securities are referred to as "Long/Short Indexes."

[5] Under accounting procedures followed by each Fund, trades made on the prior Business Day ("T") will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[6] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (as defined below), or in case of a sub-licensing agreement, the Adviser, must provide the use of the Affiliated Indexes (as defined below) and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[7] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be "investment companies" in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser ("Affiliated Accounts") as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser ("Unaffiliated Accounts"). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[8] *See, e.g.*, Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

Securities will adopt policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the ETS Securities or an associated person ("Inside Information Policy"). Any other Adviser or Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [9] and Inside Information Policy of the Adviser and any Sub-Adviser, personnel of those entities with knowledge about the composition of the Portfolio Deposit [10] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

14. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees ("Board") will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser ("Adviser Affiliates") and Affiliated Persons of any Sub-Adviser ("Sub-Adviser Affiliates") may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission. Applications for prior orders granted to Self-Indexing Funds have received relief to operate such funds on the basis discussed above.[11]

15. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments ("Deposit Instruments"), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments ("Redemption Instruments").[12] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions)[13] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[14] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[15] will be excluded from the Deposit Instruments and the Redemption Instruments;[16] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[17] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a "Rebalancing"). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the "Cash Amount").

16. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[18] (d) if, on a given Business Day,

[9] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 ("Code of Ethics").

[10] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing are referred to as the "Portfolio Deposit."

[11] See, e.g., Guggennheim Funds Investment Advisors, LLC, Investment Company Act Release Nos. 30560 (June 14, 2013) (notice) and 30598 (July 10, 2013) (order); Sigman Investment Advisors, LLC, Investment company Act Release Nos. 30559 (June 14, 2013) (notice) and 30597 (July 10, 2013) (order); Transparent Value Trust, et al., Investment Company Act Release Nos. 30558 (June 14, 2013) (notice) and 30596 (July 10, 2013) (order); and Horizons ETF Trust, et al., Investment Company Act Release Nos. 30803 (November 21, 2013) (notice) and 30833 (December 17, 2013) (order).

[12] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 ("Securities Act"). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[13] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[14] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[15] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[16] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[17] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[18] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax

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the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[19]

17. Creation Units will consist of specified large aggregations of Shares (*e.g.*, 25,000 Shares) as determined by the Adviser, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an "Authorized Participant" which is either (1) a "Participating Party," *i.e.*, a Broker or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company ("DTC") ("DTC Participant"), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

18. Each Business Day, before the open of trading on the Exchange on which Shares are primarily listed ("Listing Exchange"), each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

19. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees ("Transaction Fees") in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[20] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

20. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a "Market Maker") and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

21. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[21] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

22. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

23. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a "mutual fund." Instead, each such Fund will be marketed as an "ETF." All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and

consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[19] A "custom order" is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[20] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[21] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an "open-end company" as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fourteen (14) calendar days. Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fourteen calendar days following the tender of Creation Units for redemption.[22]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fourteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fourteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other

[22] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations Applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts ("UITs") that are not advised or sponsored by the Adviser, and not part of the same "group of investment companies," as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as "Investing Management Companies," such UITs are referred to as "Investing Trusts," and Investing Management Companies and Investing Trusts are collectively referred to as "Funds of Funds"), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the "Fund of Funds Adviser") and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each, a "Fund of Funds Sub-Adviser"). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor ("Sponsor").

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[23] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor ("Fund of Funds Advisory Group") from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser ("Fund of Funds Sub-Advisory Group").

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate ("Affiliated Underwriting"). An "Underwriting Affiliate" is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("disinterested directors or trustees"), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[24]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund ("FOF Participation Agreement"). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only

[23] A "Fund of Funds Affiliate" is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A "Fund Affiliate" is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

[24] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines "affiliated person" of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an "Affiliated Fund"). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions "in-kind."

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making "in-kind" purchases or "in-kind" redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for "in-kind" purchases of Creation Units and the redemption procedures for "in-kind" redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Holdings currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that "in-kind" purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that "in-kind" purchases and redemptions will be made on terms reasonable to Applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Holdings held by a Fund is identical to that used for calculating "in-kind" purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, applicants submit that, by using the same standards for valuing Portfolio Holdings held by a Fund as are used for calculating "in-kind" redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions "in-kind" will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[25] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[26] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the

[25] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from Section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[26] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by Section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, the Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV ("Bid/Ask Price"), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser to a Self-Indexing Fund, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Self-Indexing Fund) to acquire any Deposit Instrument for a Self-Indexing Fund through a transaction in which the Self-Indexing Fund could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, including a majority of the directors or trustees who are not "interested persons" within the meaning of Section 2(a)(19) of the Act ("non-interested Board members"), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if

appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the applicable Trust will execute a FOF Participation Agreement stating, without limitation, that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28313 Filed 12–1–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73686; File No. SR–NASDAQ–2014–115]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted

November 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b–4[2] thereunder, notice is hereby given that on November 21, 2014, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is filing with the Commission a proposal to amend Chapter VI, Section 5 (Minimum Increments) of the rules of the NASDAQ Options Market ("NOM") to extend through June 30, 2015, the Penny Pilot Program in options classes in certain issues ("Penny Pilot" or "Pilot"), and to change the date when delisted classes may be replaced in the Penny Pilot.[3]

The Exchange requests that the Commission waive the 30-day operative delay period to the extent needed for timely industry-wide implementation of the proposal.

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is in *italics* and proposed deleted language is [bracketed].

NASDAQ Stock Market Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on NOM. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1)–(2) No Change.

(3) For a pilot period scheduled to expire on [December 31, 2014]*June 30, 2015*, if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than $3.00, five (5) cents if the options series is trading at $3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to

[3] The Penny Pilot was established in March 2008 and was last extended in 2014. See Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); and 72244 (May 23, 2014), 79 FR 31151 (May 30, 2014) (SR–NASDAQ–2014–056) (notice of filing and immediate effectiveness extending the Penny Pilot through December 31, 2014).

membership via an Options Trader Alert ("OTA") posted on the Exchange's Web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following [July 1, 2014]*January 1, 2015.*

(4) No Change.

(b) No Change.

* * * * *

The text of the proposed rule change is available from NASDAQ's Web site at *http://nasdaq.cchwallstreet.com,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Chapter VI, Section 5 to extend the Penny Pilot through June 30, 2015, and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock ("QQQQ"), the SPDR S&P 500 Exchange Traded Fund ("SPY") and the iShares Russell 2000 Index Fund ("IWM"), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on December 31, 2014.

The Exchange proposes to extend the time period of the Penny Pilot through June 30, 2015, and to provide revised dates for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2015. The replacement issues will be selected based on trading activity in the previous six months.[4]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through June 30, 2015, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following January 1, 2015, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[7] of the Act and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

[4] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's Web site. The Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the previous six months. The replacement issues would be identified based on The Option Clearing Corporation's trading volume data from June 1, 2014 through November 30, 2014. The month immediately preceding the replacement issues' addition to the Pilot Program (*i.e.* December) would not be used for purposes of the six-month analysis.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2014–115 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASDAQ–2014–115. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *http://www.sec.gov/rules/sro.shtml*.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2014–115 and should be submitted on or before December 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28318 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73685; File No. SR–OCC–2014–21]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change in Order To Permit OCC To Adjust the Size of Its Clearing Fund on an Intra-Month Basis

November 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 13, 2014, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC would delete the second sentence of Rule 1001(a), which OCC has temporarily suspended pursuant to emergency authority under Article IX, Section 14 of its By-Laws, which would permit OCC to adjust the size of its Clearing Fund on an intra-month basis.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OCC is submitting this proposed rule change to permit OCC to collect additional financial resources from its clearing membership by increasing the size of its Clearing Fund on an intra-month basis when OCC determines such action should be taken so that the Clearing Fund is sufficient to protect OCC against potential loss under simulated default scenarios. OCC monitors the sufficiency of the Clearing Fund on a daily basis but may only readjust the size of the Clearing Fund on a monthly basis.[3] During the ordinary course of daily monitoring activities on October 15, 2014, and as a result of increased volatility in the financial markets in October 2014, OCC determined that in the event of a default of its largest participant family, OCC's then current financial resources potentially could have fallen short of the total financial resources needed to cover the loss associated with the default.

To permit OCC to increase the size of its Clearing Fund prior to the next monthly resizing that was scheduled to take place on the first business day of November 2014, OCC's Executive Chairman, on October 15, 2014, exercised certain emergency powers as set forth in Article IX, Section 14 of OCC's By-Laws.[4] In emergency circumstances, and subject to certain conditions, Article IX, Section 14 permits OCC's Board of Directors, Executive Chairman, or President to waive or suspend its By-Laws, Rules, policies and procedures, or any other rules issued by OCC or extend the time fixed thereby for the doing of any act or acts for up to thirty calendar days. Consistent with that authority, and following discussions with the Risk Committee of OCC's Board of Directors, the Executive Chairman waived the provisions in the second sentence of Rule 1001(a). OCC then filed an emergency notice with the Commission pursuant to Section 806(e)(2) of the Payment, Clearing, and Settlement

[3] *See* OCC Rule 1001(a).

[4] OCC also has submitted an advance notice that would provide greater detail concerning conditions under which OCC would resize the Clearing Fund intra-month. The change would permit intra-month resizing in the event that the five-day rolling average of projected draws are 150% or more of the Clearing Fund's then current size. *See* Securities Exchange Act Release No. 72804 (August 11, 2014), 79 FR 48276 (August 15, 2014) (SR–OCC–2014–804).

Supervision Act of 2010[5] and increased the Clearing Fund size for the remainder of October 2014 as otherwise provided for by the terms of Rule 1001(a).[6] This was done to respond to the potential risk under prevailing market conditions that the Clearing Fund could be underfunded, which could have affected OCC's ability to provide services in a safe and sound manner.

Clearing members were informed of the action taken by the Executive Chairman and the amount of their additional Clearing Fund requirements, which were met without issue.[7] As a result of these actions, OCC's Clearing Fund for October 2014 was increased by $1.8 billion. In continued reliance on the emergency rule waiver and the emergency notice, OCC set the November 2014 Clearing Fund size at $7.8 billion, which included an amount determined by OCC to be sufficient to protect OCC against loss under simulated default scenarios (*i.e.*, $6 billion), plus a prudential margin of safety (the additional $1.8 billion collected in October).[8] All required contributions to the November 2014 Clearing Fund have been met by impacted clearing members.

Under Article IX, Section 14(c) of OCC's By-Laws, OCC's waiver of the provisions of the second sentence of Rule 1001(a) is permitted to continue for no more than thirty calendar days unless OCC submits a proposed rule change to the Commission seeking approval of such waiver.[9] Upon submission of a rule filing, the waiver may continue in effect until the Commission approves or disapproves the proposed rule change.[10] Accordingly, OCC is now submitting this proposed rule change to delete the second sentence of Rule 1001(a) and, by the terms of Article IX, Section 14(c), to preserve the suspended effectiveness of the second sentence of Rule 1001(a) beyond thirty calendar days.

OCC believes that this proposal is appropriate to permit OCC to resize the Clearing Fund more frequently than monthly and to determine its size in an amount sufficient to protect OCC from loss by relying on a broader range of sound risk management practices than only the average daily calculations under Rule 1001(a) that are performed during the preceding calendar month. OCC would use its authority to adjust the size of its Clearing Fund on an intra-month basis only to increase the size of the Clearing Fund where appropriate, not to decrease the size of the Clearing Fund.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[11] and the rules and regulations thereunder, including Rule 17Ad–22(b)(3),[12] because, by permitting OCC to resize the Clearing Fund intra-month and to determine its size in an amount sufficient to protect OCC from loss using a broader range of sound risk management practices than is currently required, the proposed modifications would assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible, protect investors and the public interest and ensure that OCC has policies and procedures designed to maintain sufficient financial resources to withstand, at a minimum, a default by the participant family to which it has the largest exposure in extreme but plausible market conditions. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.[13] OCC believes the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because OCC would continue to allocate the Clearing Fund as per current rules and without regard to any particular user or Clearing Member that makes Clearing Fund contributions. For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–OCC–2014–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2014–21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

[5] 12 U.S.C. 5465(e)(2).

[6] *See* Notice of Emergency Change to OCC's Procedures to Resize the Clearing Fund in Response to Market Conditions (SR–OCC–2014–807), *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_807.pdf*.

[7] *See* Information Memorandum #35397, dated October 16, 2014, available on OCC's Web site, *http://www.theocc.com/clearing/clearing-infomemos/infomemos1.jsp*.

[8] *See* Information Memorandum #35507, dated October 31, 2014, available on OCC's Web site, *http://www.theocc.com/clearing/cleoring-infomemos/infomemos1.jsp*.

[9] *See*, OCC By-Laws, Article IX, Section 14(c). OCC will also submit this proposed rule change to the Commodity Futures Trading Commission.

[10] *Id.*

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22(b)(3).

[13] 15 U.S.C. 78q–1(b)(3)(I).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_21.pdf*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2014–21 and should be submitted on or before December 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28353 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73682; File No. SR–FICC–2014–09]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Rules of the Government Securities Division and the Mortgage-Backed Securities Division Regarding the Default of Fixed Income Clearing Corporation

November 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 12, 2014, Fixed Income Clearing Corporation ("FICC" or "Corporation") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the rules of the Government Securities Division ("GSD Rules") of FICC and the rules of the Mortgage-Backed Securities Division ("MBSD Rules") of FICC (each of GSD and MBSD, a "Division" of FICC) regarding a default by the Corporation.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of this filing is to amend in certain respects the GSD Rules and the MBSD Rules regarding a default by the Corporation.

By way of background, in 2010, FICC received approval from the Securities and Exchange Commission ("SEC") to amend the GSD Rules to add Rule 22B (the "GSD Corporation Default Rule").[3] Certain technical clarifying changes to the GSD Corporation Default Rule were subsequently filed by FICC with the SEC for immediate effectiveness in 2011.[4]

The GSD Corporation Default Rule was originally added to the GSD Rules to make explicit the close out netting that would be applied to obligations between FICC and its members in the event that FICC becomes insolvent or otherwise defaults on its obligations to its members, and, in doing so, provide clarity to member firms in their application of balance sheet netting to their transactions at FICC under U.S. GAAP and in the calculation of their capital requirements on the basis of their net credit exposure to FICC under Basel Accord standards. A rule parallel to the GSD Corporation Default Rule was subsequently added as Rule 17A to the MBSD Rules[5] (the "MBSD Corporation Default Rule", and together with the GSD Corporation Default Rule, the "Corporation Default Rules").

There are three general types of default covered by the Corporation Default Rules: Voluntary proceedings defaults, involuntary proceedings defaults and non-insolvency related defaults.

With respect to voluntary proceedings defaults, FICC would be considered in default under the current Corporation Default Rules immediately upon the dissolution of the Corporation, the voluntary institution of proceedings by the Corporation seeking a judgment of insolvency or bankruptcy or other similar relief or the voluntary presentation by the Corporation of a petition for its winding up or liquidation.

With respect to involuntary proceedings defaults, FICC would be considered in default under the current Corporation Default Rules on the 91st calendar day after the judgment of insolvency or bankruptcy or the entry of an order for relief (or similar order) for FICC's winding up or liquidation, or the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for all or substantially all of the Corporation's assets, where such judgment, order or appointment, as applicable, remains unstayed throughout the 90 calendar day grace period.

With respect to non-insolvency related defaults, FICC would, as a general matter, be considered in default under the current Corporation Default Rules on the 91st calendar day after it receives notice from a member of its failure to make an undisputed payment or delivery to such member that is required under the GSD Rules or the MBSD Rules, respectively, where such failure remains unremedied throughout the 90 calendar day grace period. However, the current Corporation Default Rules exclude from the scope of what can be considered a non-insolvency related default of the applicable Division of FICC: (1) Failure to satisfy obligations to members in wind-down and defaulting members; (2) the satisfaction of obligations by alternate means provided for under the applicable Division's Rules; (3) failure of the other Division of FICC to satisfy an obligation to a member; and (4) failure to satisfy obligations as a result of an operational, technological or

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–63038 (October 5, 2010), 75 FR 62899 (October 13, 2010) (SR–FICC–2010–04).

[4] *See* Securities Exchange Act Release No. 34–64004 (March 2, 2011), 76 FR 12782 (March 8, 2011) (SR–FICC–2011–02).

[5] *See* Securities Exchange Act Release No. 34–66550 (March 9, 2012), 77 FR 15155 (March 14, 2012) (SR–FICC–2008–01).

administrative error or impediment, provided that the Corporation possesses sufficient funds or assets to satisfy the obligations. Moreover, the grace period can be extended beyond 90 calendar days under the current Corporation Default Rules in a non-insolvency related default situation where a payment or delivery deadline has been suspended under the applicable Division's Rules, in which case the 90 calendar day grace period would commence on the date the Corporation receives notice from a member of its failure to make an undisputed payment or delivery on the later due date determined pursuant to the suspension.

In order to more closely align FICC's Corporation Default Rules with those of its peer central counterparties and to facilitate the participation of market participants, including registered investment companies, in FICC's services by providing members with further legal certainty regarding their rights with respect to a default by the Corporation, FICC is proposing to modify the Corporation Default Rules as described below.

With respect to voluntary proceedings defaults, FICC is proposing to add as an additional type of voluntary proceeding default under the Corporation Default Rules the voluntary making by FICC of a general assignment for the benefit of creditors.

With respect to involuntary proceedings defaults, FICC is proposing to eliminate the 90 calendar day grace period such that FICC would be considered in an involuntary proceedings default immediately upon the judgment of insolvency or bankruptcy or the entry of an order for relief (or similar order) for FICC's winding-up or liquidation, or the appointment of a receiver, trustee or other similar official for FICC or substantially all of FICC's assets, provided that such receiver, trustee or other similar official is appointed pursuant to the federal securities laws, particularly Section 19(i) of the Act, or Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

With respect to non-insolvency related defaults, FICC is proposing to reduce the grace period from 90 to 7 calendar days such that FICC would, as a general matter, be considered in a non-insolvency related default on the 8th calendar day after it receives notice from a member of its failure to make an undisputed payment or delivery to such member that is required under the GSD Rules or the MBSD Rules, respectively, provided that such failure remains unremedied throughout the 7 calendar day grace period. FICC is also proposing to remove the provisions of the Corporation Default Rules that provide for a potential extension of the grace period in a non-insolvency default situation where the deadline for a payment or delivery obligation of the Corporation has been suspended by the Corporation under the applicable Division's Rules, as well as the provisions of the Corporation Default Rules that exclude from the scope of what can be considered a non-insolvency related default the failure of the Corporation to satisfy obligations based on an operational, technological or administrative error or impediment.

FICC is also proposing to add language to the definition of a "Corporation Default" in order to clarify that no other provision of the applicable Division's Rules, including FICC's authority under GSD Rule 42 (Suspension of Rules) and MBSD Rule 33 (Suspension of Rules in Emergency Circumstances), respectively, can override the definition of "Corporation Default" included in the Corporation Default Rules.

Proposed GSD Rule Changes

FICC is proposing to amend GSD Rule 22B—"Corporation Default" as follows:

Clause (b) is revised to clarify that no other provision of GSD's Rules, including FICC's authority under GSD Rule 42 (Suspension of Rules), can override the definition of "Corporation Default" included in GSD Rule 22B.

Clause (b)(i) is revised to reduce the grace period for a non-insolvency Corporation Default from 90 to 7 calendar days such that FICC would be considered in a non-insolvency Corporation Default on the 8th calendar day after it receives notice from a member of its failure to make an undisputed payment or delivery to such member that is required under the GSD Rules, provided that such failure remains unremedied throughout the 7 calendar day grace period and that none of the exclusions enumerated in subclauses (A), (B) and (C) from the scope of what is considered a non-insolvency Corporation Default are applicable.

Clause (b)(i) is also revised to remove subclause (D), which currently provides for a potential extension of the grace period in a non-insolvency Corporation Default where a payment or delivery deadline has been suspended under GSD Rule 42, in which case the grace period would commence on the date the Corporation receives notice from a member of its failure to make an undisputed payment or delivery on the later due date determined pursuant to the suspension.

Clause (b)(i) is further revised to remove subclause (E), which currently excludes from the definition of a non-insolvency Corporation Default the failure of the Corporation to satisfy obligations based on an operational, technological or administrative error or impediment.

Clause (b)(ii)(B) is revised to add the voluntary making by FICC of a general assignment for the benefit of creditors as a type of voluntary Corporation Default for purposes of the GSD Corporation Default Rule.

Clause (b)(ii)(C) is revised to eliminate the 90 calendar day grace period for an involuntary Corporation Default such that FICC would be considered in an involuntary Corporation Default immediately upon the judgment of insolvency or bankruptcy or the entry of an order for relief (or similar order) for FICC's winding-up or liquidation.

Clause (b)(ii)(D) is similarly revised to eliminate the 90 calendar day grace period after the involuntary appointment of a receiver, trustee or other similar official for FICC or substantially all of FICC's assets, but is also revised to eliminate the references to an administrator, provisional liquidator, conservator or custodian being appointed and provide that a receiver, trustee or other similar official must be appointed pursuant to the federal securities laws or Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act in order for such appointment to be considered an involuntary Corporation Default.

Proposed MBSD Rule Changes

FICC is proposing to amend the MBSD Rule 17A—"Corporation Default" as follows:

Clause (b) is revised to clarify that no other provision of MBSD's Rules, including FICC's authority under MBSD Rule 33 (Suspension of Rules in Emergency Circumstances), can override the definition of "Corporation Default" included in MBSD Rule 17A.

Clause (b)(i) is revised to reduce the grace period for a non-insolvency Corporation Default from 90 to 7 calendar days such that FICC would be considered in a non-insolvency Corporation Default on the 8th calendar day after it receives notice from a member of its failure to make an undisputed payment or delivery to such member that is required under the MBSD Rules, provided that such failure remains unremedied throughout the 7 calendar day grace period and that none of the exclusions enumerated in subclauses (A), (B) and (C) from the scope of what is considered a non-

insolvency Corporation Default are applicable.

Clause (b)(i) is also revised to remove subclause (D), which currently provides for a potential extension of the grace period in a non-insolvency Corporation Default where a payment or delivery deadline has been suspended under MBSD Rule 33, in which case the grace period would commence on the date the Corporation receives notice from a member of its failure to make an undisputed payment or delivery on the later due date determined pursuant to the suspension.

Clause (b)(i) is further revised to remove subclause (E), which currently excludes from the definition of a non-insolvency Corporation Default the failure of the Corporation to satisfy obligations based on an operational, technological or administrative error or impediment.

Clause (b)(ii)(B) is revised to add the voluntary making by FICC of a general assignment for the benefit of creditors as a type of voluntary Corporation Default for purposes of the MBSD Corporation Default Rule.

Clause (b)(ii)(C) is revised to eliminate the 90 calendar day grace period for an involuntary Corporation Default such that FICC would be considered in an involuntary Corporation Default immediately upon the judgment of insolvency or bankruptcy or the entry of an order for relief (or similar order) for FICC's winding-up or liquidation.

Clause (b)(ii)(D) is similarly revised to eliminate the 90 calendar day grace period after the involuntary appointment of a receiver, trustee or other similar official for FICC or substantially all of FICC's assets, but is also revised to eliminate the references to an administrator, provisional liquidator, conservator or custodian being appointed and provide that a receiver, trustee or other similar official must be appointed pursuant to the federal securities laws or Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act in order for such appointment to be considered an involuntary Corporation Default.

(2) Statutory Basis

The proposed rule is consistent with Section 17A(b)(3)(F)[6] of the Act and the rules and regulations promulgated thereunder because it will promote the prompt and accurate clearance and settlement of securities transactions in that it will provide FICC members with further legal certainty regarding their rights with respect to a default by the Corporation and, thereby, enable market participants, including registered investment companies, to avail themselves of the benefits of clearing through FICC.

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact, or impose any burden, on competition because it relates to changes to the Corporation Default Rules that would apply equally to all members of each Division of FICC.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FICC–2014–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FICC–2014–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site: *http://www.dtcc.com/~/media/Files/Downloads/legal/rule-filings/2014/ficc/SR-FICC-2014-09.pdf*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2014–09 and should be submitted on or before December 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28315 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73688; File No. SR–Phlx–2014–77]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted

November 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b–4 [2] thereunder, notice is hereby given that on November 21, 2014, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Phlx Rule 1034 (Minimum Increments) to extend through June 30, 2015, the Penny Pilot Program in options classes in certain issues ("Penny Pilot" or "Pilot"), and to change the date when delisted classes may be replaced in the Penny Pilot.[3]

The Exchange requests that the Commission waive the 30-day operative delay period to the extent needed for timely industry-wide implementation of the proposal.

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is in *italics* and proposed deleted language is [bracketed].

NASDAQ OMX PHLX Rules

Options Rules

* * * * *

Rule 1034. Minimum Increments

(a) Except as provided in sub-paragraphs (i)(B) and (iii) below, all options on stocks, index options, and Exchange Traded Fund Shares quoting in decimals at $3.00 or higher shall have a minimum increment of $.10, and all options on stocks and index options quoting in decimals under $3.00 shall have a minimum increment of $.05.

(i)(A) No Change.

(B) For a pilot period scheduled to expire [December 31, 2014]*June 30, 2015* (the "pilot"), certain options shall be quoted and traded on the Exchange in minimum increments of $0.01 for all series in such options with a price of less than $3.00, and in minimum increments of $0.05 for all series in such options with a price of $3.00 or higher, except that options overlying the PowerShares QQQ Trust ("QQQQ")®, SPDR S&P 500 Exchange Traded Funds ("SPY"), and iShares Russell 2000 Index Funds ("IWM") shall be quoted and traded in minimum increments of $0.01 for all series regardless of the price. A list of such options shall be communicated to membership via an Options Trader Alert ("OTA") posted on the Exchange's Web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following [July 1, 2014]*January 1, 2015.*

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Phlx Rule 1034 to extend the Penny Pilot through June 30, 2015, and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock ("QQQQ"), the SPDR S&P 500 Exchange Traded Fund ("SPY") and the iShares Russell 2000 Index Fund ("IWM"), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on December 31, 2014.

The Exchange proposes to extend the time period of the Penny Pilot through June 30, 2015, and to provide revised dates for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2015. The replacement issues will be selected based on trading activity in the previous six months.[4]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Penny Pilot was established in January 2007 and was last extended in 2014. *See* Securities Exchange Act Release Nos. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007) (SR–Phlx–2006–74) (notice of filing and approval order establishing Penny Pilot); and 72245 (May 23, 2014), 79 FR 33164 (May 30, 2014) (SR–Phlx–2014–37) (notice of filing and immediate effectiveness extending the Penny Pilot through December 31, 2014).

[4] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's Web site. The Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the previous six months. The replacement issues would be identified based on The Option Clearing Corporation's trading volume data from June 1, 2014 through November 30, 2014. The month immediately preceding the replacement issues' addition to the Pilot Program (*i.e.* December) would not be used for purposes of the six-month analysis.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(5) of the Act [6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through June 30, 2015, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following January 1, 2015, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) [7] of the Act and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2014–77 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR-Phlx-2014–77. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *http://www.sec.gov/rules/sro.shtml*.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2014–77 and should be submitted on or before December 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28320 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73687; File No. SR–Phlx–2014–73]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Active SQF Port Fees

November 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 12, 2014, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Section VI of the Exchange's Fee Schedule pertaining to the Active SQF Port Fee.

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on December 1, 2014.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Active SQF Port Fee in Section VII of the Exchange's Fee Schedule, titled "Access Service, Cancellation, Membership, Regulatory and Other Member Fees," [sic] in order that the Exchange may provide an equal opportunity to Specialists and Market Makers to access the Specialized Quote Feed ("SQF") data at a lower cost. SQF is an interface that enables specialists, Streaming Quote Traders ("SQTs") [3] and Remote Streaming Quote Traders ("RSQTs") [4] to connect and send quotes into Phlx XL.[5] Active SQF ports are ports that receive inbound quotes at any time within that month.[6]

The Exchange is currently undergoing a technology refresh on the Phlx trading system. State-of-the-art hardware and software architecture will be deployed in order to achieve a more efficient and more robust infrastructure to support the growing needs of market participants. Today, the Exchange offers Active SQF Ports in sets of four to accommodate the connections necessary to[sic] the match engine.[7] The refresh will require at least one port to connect to the match engine as compared to a set of four ports. The functionality will not change as a result of the refresh. The Exchange anticipates that Specialists and Market Makers will benefit from the efficiency of the service that will be available to them as a result of the refresh. While Specialists and Market Makers will be required to make network and other technical changes in order to connect to the Phlx system via SQF, the Exchange believes that members costs will decline overall as a result of the more efficient connectivity offered by the refresh. The increased efficiency in connectivity will not require the same infrastructure on the part of members to connect to the Exchange. Members will not need to have the same level of connectivity after the conversion to the new ports and overall this will reduce cost.

The Exchange intends to provide Specialists and Market Makers with new SQF ports for connectivity and functionality testing so that Specialists and Market Makers may migrate from the old to the new Active SQF Ports over a reasonable period of time.[8] For purposes of this filing the current ports will be referred to as "current ports" and the ports available after the refresh will be referred to as "new ports." Current ports will be eliminated after the refresh is complete and only new ports will be utilized thereafter.

Today, the Exchange assesses member organizations an Active SQF Port Fee based on the number of active ports. For 0–4 ports, the member organization is assessed $350, for 5–18 ports the member organization is assessed $1,350 and for 19 or more ports the member organization is assessed $2,500. Active SQF Port Fees are capped at $41,000 per month.

The Exchange proposes to assess Specialists and Market Makers, who are currently assessed the Active SQF Port Fee because they have ports today, a fee for their current ports which reflects the average of fees assessed to them for the months of August, September and October 2014 ("Fixed Fee"). The Active SQF Fixed Fee will be assessed on a monthly basis to these Specialists and Market Makers, for their current ports, from December 1, 2014 through March 31, 2015.[9] Any new ports utilized by Specialists or Market Makers, that are being assessed the Fixed Fee, will not be subject to any additional fees through March 31, 2015 beyond the Fixed Fee. The Exchange proposes to not assess Specialists or Market Makers for new ports assigned in connection with XL refresh during the time period from December 1, 2014 through March 31, 2015.

All Specialists and Market Makers would be subject to the following Active SQF Port Fees as of April 1, 2015:

Number of active SQF port	Monthly fee per port
1	$2,500
2–6	4,000
7 and over	15,000

A Specialist or Market Maker who was not subject to Fixed Fees prior to December 1, 2014, because that Specialist or Marker Maker did not have Active SQF Ports, will be assessed the above Active SQF Port Fees as of December 1, 2014.[10]

[3] An SQT is defined in Exchange Rule 1014(b)(ii)(A) as a Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

[4] An RSQT is defined in Exchange Rule in 1014(b)(ii)(B) as an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

[5] *See* Securities Exchange Act Release No. 63034 (October 4, 2010), 75 FR 62441 (October 8, 2010) (SR–Phlx–2010–124).

[6] The current Active SQF Ports allows member organizations to access, information such as execution reports, execution report messages, auction notifications, and administrative data through a single feed. Other data that is available includes: (1) Options Auction Notifications (*e.g.*, opening imbalance, market exhaust, PIXL or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (*e.g.*, start of messages, start of system hours, start of quoting, start of opening); (4) Complex Order Strategy Auction Notifications (COLA); (5) Complex Order Strategy messages; (6) Option Trading Action Messages (*e.g.*, trading halts, resumption of trading); and (7) Complex Strategy Trading Action Message (*e.g.*, trading halts, resumption of trading).

[7] These four connections each contain various alpha ranges and therefore four ports are required to access all options.

[8] The Exchange will migrate on a symbol by symbol basis thereby requiring the use of both new and old Active SQF Ports for a period of time. The Commission notes that the exchange has represented that the rollout will take place over an 8 week period. *See* Email from Angela Dunn, Associate General Counsel, Phlx, to Tyler Raimo, Senior Special Counsel, Commission, dated November 21, 2014.

[9] The Exchange intends to notify each Phlx member firm impacted by this proposal in writing, either via email or letter, of the amount of their Fixed Fee.

[10] The Exchange does not anticipate any existing or prospective members seeking to become Specialists or Market Makers to utilize the current system for less than two months given the cost of technology and development resources required to connect to an exchange.

Finally, the Exchange proposes to increase the Active SQF fee cap from $41,000 to $42,000 a month as of April 1, 2015.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[11] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[12] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The concept of a fixed fee is not novel. A fixed monthly fee was previously adopted in connection with a specialist unit fee on Phlx.[13]

The Exchange believes it is reasonable to allow Specialists and Market Makers to utilize new ports at no cost for a period of time to transition their current SQF ports to the new ports that will be offered as a result of the technology refresh. In order to ease the transition from the current ports to new ports, Specialists and Market Makers would be given an extended period to test functionality and connectivity and resolve any issues that may arise during the testing phase with the new ports. Therefore, pursuant to this proposal, new ports will be offered at no cost to those Specialists and Market Makers that currently pay Active SQF Fees through March 31, 2015 beyond the Fixed Fee. Also, Specialists and Market Maker will be able to continue to utilize their existing SQF ports in the interim to continue to conduct their business at a fixed cost. The Exchange believes that this will allow Specialists and Market Makers to have flexibility when testing the new ports as they will not be limited in number by cost.

The Exchange believes it is equitable and not unfairly discriminatory to allow Specialists and Market Makers to utilize new ports at no cost because the Exchange is permitting all current Specialists and Market Makers, who will be paying the Active SQF Port Fixed Fee, the opportunity to utilize the new ports at no costs.

The Exchange believes that averaging the months of August, September and October 2014 for the Fixed Active SQF Port Fee that will be assessed from December 1, 2014 to March 31, 2015 is reasonable because the Exchange desires to offer Specialists and Market Makers who currently have ports some certainty with respect to their costs through the transition. The Exchange believes that utilizing the months August, September and October 2014 to determine the Fixed Fee is reasonable because it should reflect an accurate representation of the number of ports typically utilized by that particular Specialist and Market Maker for Active SQF Ports. The three month window reflects the typical pattern of usage for the Specialist or Market Maker. Also, these Specialists and Market Makers would not be assessed any fees to utilize as many new ports as they require to test in the new system.

The Exchange believes that averaging the months of August, September and October 2014 for the Fixed Active SQF Port Fee that will be assessed from December 1, 2014 to March 31, 2015 is equitable and not unfairly discriminatory because the Exchange will assess all current users of Active SQF Ports a Fixed Fee based on the same criteria.

The Exchange believes that it is reasonable to assess the increased port fees as of April 1, 2015 of $2,500 for 1 port, $4,000 for 2–6 ports and $15,000 for 7 or more ports. The technology refresh will increase the efficiency with which members can connect to the Phlx system. As a result of the refresh, members would not be required to utilize the same number of ports as they do today to connect to the Phlx system and therefore this should reduce the number of ports required and lower costs.[14] The refresh will require at least one port to connect to the match engine as compared to a set of four ports. The functionality will not change as a result of the refresh. The Exchange anticipates that Specialists and Market Makers will benefit from the efficiency of the service that will be available to them as a result of the refresh. While Specialists and Market Makers will be required to make network and other technical changes in order to connect to the Phlx system via SQF, the Exchange believes that members costs will decline overall as a result of the more efficient connectivity offered by the refresh. The increased efficiency in connectivity will not require the same infrastructure on the part of members to connect to the Exchange. Members will not need to have the same level of connectivity after the conversion to the new ports and overall this will reduce cost.

The Exchange believes it is equitable and not unfairly discriminatory to increase the port fees as of April 1, 2015 because all Specialists and Market Makers would be subject to the same fees.

The Exchange believes that assessing new Specialists and Market Makers the new Active SQF Port fees as of December 1, 2014 if they currently have no Active SQF Ports is reasonable because these Specialists and Market Makers would not be required to maintain two sets of ports during the transition.[15] Existing Specialists and Market Makers will be required to maintain old as well as new ports during portions of the migration. These Specialists and Market Makers would be able to commence utilizing the new ports for testing. As previously explained, the technology refresh will increase the efficiency with which members can connect to the Phlx system. As a result of the refresh, members would not be required to utilize the same number of ports as they do today to connect to the Phlx system and therefore this should reduce the number of ports required and lower costs.

The Exchange believes that assessing Specialists and Market Makers the new Active SQF Port fees if they currently have no Active SQF Ports is equitable and not unfairly discriminatory because these Specialists and Market Makers would not be paying an Active SQF Fee for the current ports. All Specialists and Market Makers would be paying a fee to utilize Active SQF Port Fees.

The Exchange believes that increasing the Active Port Fee cap from $41,000 to $42,000 as of April 1, 2015 is reasonable because the Exchange is increasing the pricing on new ports. The increase in the cost of the ports aligns with the increased fee cap.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] *See* Securities Exchange Act Release No. 48459 (September 8, 2003), 68 FR 54034 (September 15, 2003) (SR–Phlx–2003–61). This proposal offered specialists the ability to pay a fixed monthly fee which was computed by taking the equity options and index options volume in May and June 2003 and multiplying that volume, for the specific specialist, by the specialist transaction fee in effect for equity and index options and adding the total of the charges for that period. In order to qualify for the option of paying a fixed fee, the specialist unit must have been trading an equity or index option book on the Phlx trading floor in their capacity as a specialist unit with Phlx equity option or index option transactions in at least one equity option or index option book, for at least one year from September 1, 2002.

[14] The member organization may have some technological reasons for desiring the same number of ports based on their own technical infrastructure but not because of Phlx's system structure.

[15] Currently all Specialists and Market Makers are utilizing the current ports. If during the end of October 2014 or November 2014 a new Specialist or Market Maker desired ports they could still obtain the current ports. After December 1, 2014, only the new ports would be offered to a new Specialist or Market Maker.

The Exchange believes that increasing the Active Port Fee cap from $41,000 to $42,000 as of April 1, 2015 is equitable and not unfairly discriminatory because the Exchange will apply the fee cap to all Specialists and Market Makers uniformly at that time.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose an undue burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that offering Specialists and Market Makers the opportunity to utilize certain Active SQF ports, during this transition with XL, at no cost will ensure the transition is done smoothly. Specialists and Market Makers will continue to be assessed the Active SQF Port Fees for current ports at a Fixed Fee that is representative of their typical usage. The Exchange would allow these market participants to utilize new ports at no cost without limit.

Finally, increasing the Active SQF Fee cap from $41,000 to $42,000 as of April 1, 2015 will not impose an undue burden on competition because the cap would be applied uniformly to all market participants.

The Exchange operates in a highly competitive market, comprised of twelve options exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[16] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2014–73 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2014–73. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–73, and should be submitted on or before December 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28319 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73689; File No. SR–BX–2014–057]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted

November 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1], and Rule 19b–4 [2] thereunder, notice is hereby given that on November 21, 2014, NASDAQ OMX BX, Inc. ("Exchange" or "BX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BX is filing with the Commission a proposal to amend Chapter VI, Section 5 (Minimum Increments) to extend through June 30, 2015, the Penny Pilot Program in options classes in certain issues ("Penny Pilot" or "Pilot"), and to change the date when delisted classes may be replaced in the Penny Pilot.[3]

The Exchange requests that the Commission waive the 30-day operative

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Penny Pilot was established in June 2012 and extended in 2014. *See* Securities Exchange Act Release Nos. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR–BX–2012–030) (order approving BX option rules and establishing Penny Pilot); and 72246 (May 23, 2014), 79 FR 31160 (May 30, 2014) (SR–BX–2014–027) (notice of filing and immediate effectiveness extending the Penny Pilot through December 31, 2014).

delay period to the extent needed for timely industry-wide implementation of the proposal.

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is in *italics* and proposed deleted language is [bracketed].

NASDAQ OMX BX Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on BX Options. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1) If the options series is trading at less than $3.00, five (5) cents;

(2) If the options series is trading at $3.00 or higher, ten (10) cents; and

(3) For a pilot period scheduled to expire on [December 31, 2014] *June 30, 2015,* if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than $3.00, five (5) cents if the options series is trading at $3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to membership via an Options Trader Alert ("OTA") posted on the Exchange's Web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following [July 1, 2014] *January 1, 2015.*

(4) No Change.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Chapter VI, Section 5 to extend the Penny Pilot through June 30, 2015, and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock ("QQQQ"), the SPDR S&P 500 Exchange Traded Fund ("SPY") and the iShares Russell 2000 Index Fund ("IWM"), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on December 31, 2014.

The Exchange proposes to extend the time period of the Penny Pilot through June 30, 2015, and to provide revised dates for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2015. The replacement issues will be selected based on trading activity in the previous six months.[4]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through June 30, 2015, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following January 1, 2015, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option

[4] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's Web site. The Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the previous six months. The replacement issues would be identified based on The Option Clearing Corporation's trading volume data from June 1, 2014 through November 30, 2014. The month immediately preceding the replacement issues' addition to the Pilot Program (*i.e.* December) would not be used for purposes of the six-month analysis.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[7] of the Act and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2014–057 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–9303.

* * * * *

All submissions should refer to File Number SR–BX–2014–057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *http://www.sec.gov/rules/sro.shtml*.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of BX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BX–2014–057 and should be submitted on or before December 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28321 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73683; File No. SR–NASDAQ–2014–110]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of a Proposed Rule Change To Adopt NASDAQ Rule 7015(i) To Offer the New IPO Workstation

November 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 14, 2014 The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ proposes to adopt NASDAQ Rule 7015(i) to offer the new IPO Workstation.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/*, at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ recently filed a proposed rule change to offer the IPO Indicator as an enhancement to NASDAQ Workstation subscription at no

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

additional cost.[3] The IPO Indicator is designed to assist member firms in monitoring their orders in the NASDAQ Halt Cross process leading up to the launch of an initial public offering ("IPO"). NASDAQ is now proposing to adopt Rule 7015(i) to offer the new IPO Workstation, which will provide subscribing member firms with stand-alone access to the IPO Indicator service, at no cost at this time.

Halt Cross Process

The NASDAQ Halt Cross is designed to provide for an orderly, single-priced opening of securities subject to an intraday halt, including securities that are the subject of an IPO. Prior to the Cross execution, market participants enter quotes and orders eligible for participation in the Cross, and NASDAQ disseminates certain information regarding buying and selling interest entered and the indicative execution price information, known as the Net Order Imbalance Indicator or NOII. The NOII is disseminated every five seconds during a designated period prior to the completion of the Halt Cross, in order to provide market participants with information regarding the possible price and volume of the Cross. The information provided in the NOII message includes the Current Reference Price,[4] which is the price at which the Cross would occur if it executed at the time of the NOII's dissemination, and the number of shares of Eligible Interest,[5] which is defined as any quotation or any order that may be entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross, that would be paired at that price.

NASDAQ also disseminates a Market Order Imbalance, which is defined as the number of shares of Eligible Interest entered through market orders that would not be matched with other order shares at the time of the dissemination of an NOII, if in fact there are such unexecutable market order shares. When there is a Market Order Imbalance, NASDAQ disseminates the imbalance and the buy/sell direction of the imbalance. For example, if a buy-direction Market Order Imbalance is disseminated, potential sellers in the Cross would know that buy liquidity is available at a market price, potentially encouraging them to enter additional sell orders to allow the Cross to proceed.

In addition to disseminating information about Market Order Imbalances, NASDAQ also disseminates information about the size and buy/sell direction of an Imbalance. An Imbalance is defined as the number of shares of Eligible Interest with a limit price equal to the Current Reference Price that may not be matched with other order shares at a particular price at any given time.[6] As noted above, Eligible Interest is defined as any quotation or any order that may be entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross. Thus, the provided information reflects all shares eligible for participation in the Cross, regardless of time-in-force, and includes non-displayed shares and reserve size. As such, the Imbalance information indicates the degree to which available liquidity on one or the other side of the market would not be executed if the Cross were to occur at that time.

Generally, a Halt in a security is terminated when NASDAQ determines to release a security, at which time the Display Only Period begins, culminating in the Halt Cross whereby the security is released for regular hours trading at the price that maximizes the number of shares of trading interest eligible for participation in the Cross to be executed.[7] In the case of an IPO, underwriters to an IPO make a determination to launch an IPO during the Pre-Launch Period[8] when they believe the security is ready to trade. When the underwriter informs NASDAQ that it is ready to launch the IPO, the NASDAQ system will calculate the Current Reference Price at that time (the "Expected Price") and display it to the underwriter. If the underwriter then approves proceeding, the NASDAQ system will conduct two validation checks. Specifically, the NASDAQ system will determine whether all market orders will be executed in the cross, and whether the Expected Price and the price calculated by the Cross differ by an amount in excess of the price band selected by the underwriter.[9] If either of the validation checks fail, the security will not be released for trading and the Pre-Launch Period will continue seamlessly until all requirements are met. Alternatively, the underwriter may, with the concurrence of NASDAQ, determine to postpone and reschedule the IPO.

IPO Indicator and IPO Workstation

The IPO Indicator service will provide member firms with more information about interest in an IPO security. Specifically, the IPO Indicator will provide information about the number and price at which shares of a member firm's orders entered for execution in an IPO Halt Cross ("IPO shares") would execute in an IPO if it were to price at the present time. The IPO Indicator uses the NOII information of an IPO security together with information about the subscribing member firm's orders on NASDAQ in the IPO security.[10] As noted above, NASDAQ has separately proposed[11] to offer the IPO Indicator as an enhancement to the NASDAQ Workstation. Similar to accessing the IPO Indicator from the NASDAQ Workstation, subscribing member firms will access the IPO Indicator from the main IPO Workstation screen, which will allow the subscriber to select an IPO security by ticker and see the Current Reference Price,[12] the number of paired shares, and the number of imbalance shares during the Display Only and Pre-Launch Periods. The screen will also provide the total number of IPO shares the member firm has entered for execution in the IPO Halt Cross, the nature of such shares (buy or sell), and the number of IPO shares that would be executed in the Halt Cross at that time for each of those categories. A subscribing member firm will also be able to access further detail on its IPO shares presented by individual order or order block, which will include the number of IPO shares in a particular order or order block, the number and percentage of IPO shares of the order or order block that would be executed in the Halt Cross if it occurred at any given time in the process, based on the NOII disseminated every five seconds, and the price at which the order or order block was submitted. As such, the IPO Indicator will provide member firms with information consistent with what NASDAQ currently disseminates during the IPO launch process, but as it relates to a

[3] *See* Securities Exchange Act Release No. 73574 (November 12, 2014) (awaiting publication in the **Federal Register**) (SR–NASDAQ–2014–100).

[4] *See* Rule 4753(a)(3)(A).

[5] *See* Rule 4753(a)(5).

[6] *See* Rule 4753(a)(1).

[7] *See* Rule 4753(b) for a description of the processing of the Halt Cross.

[8] The Pre-Launch Period is the second phase of a two-phase process that NASDAQ uses for launching IPOs. The Pre-Launch Period follows a 15-minute Display Only Period and is of no fixed duration. During both periods, the NOII is disseminated every five seconds.

[9] *See* Rule 4120(c)(8)(B).

[10] The information provided by the IPO Indicator is limited to the subscribing member firm's orders.

[11] *Supra* note 3.

[12] The Exchange notes that, in situations where there is a Market Order Imbalance, the NOII does not provide a Current Reference Price, since not all market orders could be executed in the cross and therefore there is no price at which the IPO cross could occur.

member firm's orders and in greater detail.

NASDAQ notes that the IPO Indicator will provide member firms with more information on their orders for participation in an IPO Halt Cross, which will, in turn, allow them to make better informed investment decisions. Although, NASDAQ believes the functionality provided by the IPO Indicator will be useful to all member firms seeking to participate in the IPO Halt Cross process, underwriters to an IPO may find the functionality particularly useful as they will have current and ongoing information on the nature of their order book in the IPO shares relative to the orders that would be executed at any given time, thus allowing them to make better informed decisions on the timing of the IPO's launch. In this regard, the IPO Indicator may help an underwriter to make a determination to launch an IPO at a time most likely to avoid an order imbalance,[13] thus increasing the likelihood of a fair and orderly launch of the IPO when the underwriter informs NASDAQ that it is prepared to launch the IPO security.

The proposed IPO Workstation will provide member firms with another means to access IPO Indicator, as an alternative to a full NASDAQ Workstation subscription. The Exchange notes that not all member firms subscribe to the NASDAQ Workstation and prospective users of the IPO Indicator may not desire to pay for a full Workstation subscription for the sole purpose of accessing the IPO Indicator. Accordingly, the Exchange is proposing to offer the IPO Indicator functionality through a stand-alone "Workstation light" subscription, the IPO Workstation. The IPO Indicator functionality is unchanged from the enhancement that is proposed for a NASDAQ Workstation subscription. Unlike a NASDAQ Workstation subscription, however, the IPO Workstation subscription will provide only the IPO Indicator service and the NOII data for IPO securities.[14]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act [15] in general, and furthers the objectives of Section 6(b)(5) of the Act,[16] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposal is consistent with these requirements because it will expand the information made available to market participants about their orders and the interplay of supply and demand of buy and sell orders leading up to the completion of an IPO Halt Cross. The information provided by the proposed IPO Indicator may be particularly useful to underwriters of IPOs, who ultimately make the decision to launch an IPO or to postpone it. In this regard, the IPO Indicator will provide underwriters with a near real time assessment of the number and price at which their IPO shares will execute at any given time, consequently allowing them to make better informed decisions with regard to the timing of an IPO's launch. The proposed change will thereby perfect the mechanisms of a free and open market by helping ensure the security price is reasonably stable at the time the underwriter determines to launch the IPO. Moreover, the proposed change will protect investors and the public interest by providing additional transparency regarding the IPO Halt Cross, helping market participants to understand the degree of supply and demand for the security that is the subject of the IPO Halt Cross and the nature of the execution of IPO orders that they would receive at any given time in the IPO launch process. Offering the IPO Indicator through the IPO Workstation ensures that all member firms that are interested in subscribing to the IPO Indicator have a no cost means to access it, in lieu of a paying for a full NASDAQ Workstation subscription.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the proposed change serves merely to increase the information provided by NASDAQ regarding the nature of the execution they would receive in an IPO at any given time in the process, thereby assisting market participants in making informed investment decisions regarding their participation in the IPO Halt Cross. The proposed change also expands access to this information by offering the service through a no cost alternative to a full NASDAQ Workstation subscription. The proposed change does not restrict the ability of market participants to participate in the IPO Halt Cross in any respect, and therefore does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2014–110 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–110. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

[13] As defined by Rules 4120(c)(7)(C)(2) and (3).

[14] IPO Workstation subscribers will not have access to various tools, functionality and data provided with a full NASDAQ Workstation subscription. For a description of NASDAQ Workstation functionality, *see http://www.nasdaqtrader.com/Trader.aspx?id=Workstation.*

[15] 15 U.S.C. 78f (b).

[16] 15 U.S.C. 78f(b)(5).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–110, and should be submitted on or before December 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28316 Filed 12–1–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73690; File No. SR–ICEEU–2014–24]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Clearing Rules Relating to CASS Requirements

November 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 19, 2014, ICE Clear Europe Limited ("ICE Clear Europe" or "Clearing House") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II and III below, which Items have been primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(4)(i)[4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to implement certain requirements under the U.K. client money rules applicable to certain classes of customer accounts of Clearing Members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ICE Clear Europe submits certain proposed amendments to its Rules in connection with revised client money and client asset (collectively, "client money") requirements adopted by the U.K. Financial Conduct Authority (the "FCA") in the U.K. Client Asset Sourcebook ("CASS"). Several of the revised FCA requirements will come into effect as of December 1, 2014, including those to which the rule changes discussed herein relate.[5] Among numerous other changes, revised CASS 7.18.4R and 7.18.6R will require ICEU Clearing Members that are subject to the CASS requirements to identify to the Clearing House those accounts that contain client money for purposes of CASS through the use of a specified form of acknowledgment letter. Such identification is intended to facilitate the proper segregation of client money at the Clearing House level.

ICE Clear Europe's existing Rules establish several categories of customer accounts for Non-FCM/BD Clearing Members. Certain account categories are intended for use with customer property subject to the FCA client money requirements; other account categories are not intended for use with such property. For example, the Segregated Customer Omnibus Account for F&O, Segregated Customer Omnibus Account for CDS and Segregated Customer Omnibus Account for FX are to be used for customers that provide assets to their Clearing Members that are subject to the FCA client money regime. In addition, Individually Segregated Sponsored Accounts and Margin-flow Co-mingled Accounts may be used for such customers. By contrast, Segregated TTFCA Customer Omnibus Accounts are not to be used for customers whose assets are subject to the FCA client money regime. To date, the Clearing House has identified such accounts for purposes of the client money rules pursuant to a Circular. The new FCA rules require such identification to be provided by the Clearing Member in a specified form.

ICE Clear Europe proposes to adopt amendments to its Rules that implement the CASS acknowledgment letter requirement. Since the CASS rules themselves do not identify the accounts that should be subject to the requirement, the proposed amendments also specify the account categories for which acknowledgment letters should (and should not) be provided by Clearing Members. Specifically, ICE Clear Europe proposes to make amendments to Parts 1, 2 and 5 of the Rules. The proposed Rule amendments are described in detail as follows.

The relevant portion of Rule 102(q), which specifies that certain provisions and documents relating to asset and account segregation apply to customer accounts, has been revised to refer specifically to the customer account categories for customers whose assets are subject to the FCA client money requirements (specifically, the Segregated Customer Omnibus Accounts for F&O, CDS and FX, as well as Individually Segregated Sponsored Accounts and Margin-flow Co-mingled Accounts). In addition, subparagraph (viii) thereof has been revised to refer to acknowledgement letters delivered to the Clearing House under CASS 7.18 and countersigned by the Clearing House (in lieu of the prior Circular issued by the Clearing House relating to client money arrangements). The revisions also clarify that references to Rule 102(q) in the Rules and Procedures are deemed to include references to those provisions and documents referred to in subparagraphs (vii) and (viii) thereof.

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(i).

[5] *See generally* FCA Policy Statement No. PS14/9, Review of the Client Assets Regime for Investment Business (June 2014).

In Rule 202(a), which establishes ongoing obligations of Clearing Members, new subparagraph (xxi) has been added. It requires that Clearing Members that are subject to CASS 7.18 deliver to the Clearing House an acknowledgment letter in the required format for each of its Segregated Customer Omnibus Accounts, Individually Segregated Sponsored Accounts and Margin-flow Co-mingled Accounts which are treated by it as client transaction accounts under CASS 7.18.

In addition, Rule 203(a) has been amended to add a new subparagraph (xx), which provides that a Clearing Member that is subject to CASS 7.18 is not permitted to deliver an acknowledgment letter in respect of any Proprietary Account or Segregated TTFCA Customer Omnibus Account, as such accounts are not intended to be used for customers whose assets are subject to the FCA client money regime.

In Rule 504(c), a new subparagraph (vi) has been added with respect to Clearing Members that are subject to CASS 7.18. Each such Clearing Members is deemed to represent that its Segregated Customer Omnibus Accounts only contain cash where the corresponding cash claim or receivable in the hands of the Clearing Member is treated by the Clearing Member as a client money claim or receivable, and only contain non-cash assets (resulting from a transfer into the Account by the Clearing Member) which the Clearing Member was entitled to treat as client assets prior to their transfer to the Clearing House. A similar representation applies to Individually Segregated Sponsored Accounts and Margin-flow Co-mingled Accounts which have been designated pursuant to a client money acknowledgment letter delivered by the Clearing Member. With respect to other Customer Accounts and Proprietary Accounts, the Clearing Member is deemed to represent that such accounts do not contain any property subject to the client money rules (*i.e.*, cash where the corresponding cash claim or receivable in the hands of the Clearing Member is required to be treated as a client money claim, or any non-cash assets (resulting from a transfer into the account by the Clearing Member) which the Clearing Member was required to treat as client assets prior to their transfer to the Clearing House). A conforming change is also made in Rule 504(h) to refer to CASS acknowledgment letters provided and countersigned in accordance with Rule 102(q).

A typographical correction is also made in Rule 918(a)(viii)(B)(1).

2. Statutory Basis

ICE Clear Europe believes that the proposed amendment to the Rules and Procedures is consistent with the requirements of Section 17A of the Act [6] and the regulations thereunder applicable to it.[7] Section 17A(b)(3)(F) of the Act [8] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and to protect investors and the public interest. The proposed amendment is intended to facilitate the holding by the Clearing House of securities and funds that are subject to the U.K. client money regime under the CASS rules. Consistent with the existing customer account structure established in the ICE Clear Europe Rules, securities and funds subject to such rules are required to be maintained in certain categories of Customer Accounts. Under the revised CASS regulations, the Clearing Member is required to provide to the Clearing House an acknowledgment letter with respect to such assets and accounts. The proposed amendment is designed to implement this acknowledgment procedure, by requiring the proper acknowledgement letter for each relevant account category, and by prohibiting delivery of such a letter with respect to accounts not intended to hold client money. As such, ICE Clear Europe believes that the proposed changes will facilitate compliance with the CASS amendments and the UK client money requirements described above and are therefore consistent with the protection of investors and the public interest. As a result, the proposed changes are, in ICE Clear Europe's view, consistent with the requirements of Section 17A(b)(3)(F) of the Act.[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed change to the Rules discussed herein would have any adverse impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendment is intended to implement, at the Clearing House level, the revised client money requirements imposed under the CASS revisions. The amendment will thus apply uniformly across all Clearing Members that are subject to the CASS requirements. The additional requirements imposed by the rules on such Clearing Members are directly based on the CASS requirements applicable to them. Although the rules only affect Clearing Members that are subject to the CASS rules, that result follows from the particular regulatory status of such Clearing Members under applicable U.K. law.

In any event, ICE Clear Europe does not believe the proposed amendment set out herein would materially affect access to clearing by Clearing Members or their customers, adversely affect competition among Clearing Members or adversely affect the market for clearing services or limit market participants' choices for clearing transactions. Although the proposed amendment may impose additional compliance costs on certain Clearing Members, ICE Clear Europe believes that such costs result from the requirements imposed by the CASS revisions as discussed herein. Such costs also reflect the additional client money protections that apply under the CASS revisions. As a result, ICE Clear Europe does not believe that the proposed amendment to the Rules will impose any burden on competition not appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments have not been specifically solicited with respect to the Rule change set out herein. ICE Clear Europe will notify the Commission of any additional written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [10] of the Act and Rule 19b–4(f)(4)(i) [11] thereunder because the proposed amendment effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service, within the meaning of Rule

[6] 15 U.S.C. 78q–1.

[7] 17 CFR 240.17Ad–22.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(4)(i).

19b–4(f)(4)(i). At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICEEU–2014–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

All submissions should refer to File Number SR–ICEEU–2014–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/clear-europe/regulation#rule-filings*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU2014–24 and should be submitted on or before December 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28322 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73684; File No. SR–ICC–2014–19]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change to Formalize the ICC Operational Risk Management Framework

November 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 18, 2014, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to update and formalize ICC's Operational Risk Management Framework. These revisions do not require any changes to the ICC Clearing Rules ("Rules").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICC proposes to update and formalize the ICC Operational Risk Management Framework.

ICC believes such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. The proposed revisions are described in detail as follows.

The ICC Operational Risk Management Framework is one of several documents that establish the ICC Risk Management Framework. As a central counterparty, ICC occupies an important place in the clearing of credit default swaps and faces operational risks related to the functioning of both personnel and systems. The ICC Operational Risk Management Framework creates a program of risk assessment and oversight designed to identify, monitor and manage plausible sources of operational risk.[3] The operational risk program established by the Operational Risk Management Framework includes pro-active risk identification and mitigation, along with timely management and reporting of operational performance measures. The program applies to all ICC activities, groups, functions and locations and is also designed to evaluate and mitigate operations risk presented to ICC by its partners, related entities, and vendors.

The Operational Risk Framework provides the Operational Risk Manager with the full responsibility and authority to develop and enforce, in consultation with the ICC Board and appropriate members of senior management, the operational risk program. The ICC Board retains responsibility for oversight of ICC's operational risk management program. The Operational Risk Manager is the owner of the Operational Risk Management Framework document, and the initial document and any material amendments require review and approval by the appropriate members of senior management and the ICC Board. The Operational Risk Manager reports to the Chief Compliance Officer who reports directly to the ICC Board.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] "Operational risk" is defined in the ICC Operational Risk Management Framework as the risk that deficiencies in information systems, internal processes, personnel, or disruptions from external events will result in the reduction, deterioration, or breakdown of services.

There are several components to the ICC Operational Risk Management Framework. The Operational Risk Management Framework establishes clearly defined operational performance objectives that serve as benchmarks to evaluate efficiency and effectiveness, promote confidence among management and participants, and evaluate operational performance against expectations. Further, the Operational Risk Management Framework sets forth goals for risk identification, assessment, and mitigation, which include the identification, monitoring, and management of all plausible sources of operational risk and the establishment of clear policies and procedures to address presented risk scenarios. The Operational Risk Management Framework also contains information regarding how ICC leverages certain shared infrastructures within the Intercontinental Exchange, Inc. family as part of its operational risk management program.

Additionally, the Operational Risk Management Framework details the Operational Risk Manager's responsibilities in terms of business continuity planning, vendor risk management, and the release of new products, processes, and initiatives. The Operational Risk Manager is also responsible for operational risk reporting, which includes reporting and addressing significant operational risk weaknesses or failures timely and appropriately (including escalation to the appropriate members of senior management and the ICC Audit Committee and the Board when necessary), and providing ongoing reporting to appropriate members of senior management and periodic reporting to the ICC Board and the ICC Audit Committee on the operational risk program and significant control matters.

The operational risk management framework is overseen by the ICC Board, ICC department heads and the Chief Compliance Officer. Internal audit performs reviews of the operational risk management processes.

Section 17A(b)(3)(F) of the Act[4] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),[5] because ICC believes that the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, as the ICC Operational Risk Management Framework is designed to identify and minimize operational risk presented to the clearing house by identifying all plausible sources of operational risk presented to ICC and developing appropriate controls and procedures to effectively monitor and manage operational risk. As such, the ICC Operational Risk Management Framework facilitates ICC's ability to promptly and accurately clear and settle its cleared CDS contracts. In addition, the proposed revisions are consistent with the relevant requirements of Rule 17Ad–22.[6] The ICC Operational Risk Management Framework is designed to identify and minimize sources of operational risk through the development and implementation of appropriate systems, controls, and procedures, as the Operational Risk Management Framework provides for the creation and maintenance of a comprehensive operational risk management program and is therefore reasonably designed to meet the operational risk requirements of Rule 17Ad–22(d)(4).[7] As such, the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F)[8] of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The ICC Operational Risk Management Framework applies uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICC–2014–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2014–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] *Id.*

[6] 17 CFR 240.17Ad–22.

[7] 17 CFR 240.17Ad–22(d)(4).

[8] 15 U.S.C. 78q–1(b)(3)(F).

10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2014–19 and should be submitted on or before December 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28317 Filed 12–1–14; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14188 and #14189]

Utah Disaster # UT–00034

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of UTAH dated 11/18/2014.

Incident: Severe storms & flooding.

Incident Period: 09/27/2014.

Effective Date: 11/18/2014.

Physical Loan Application Deadline Date: 01/20/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 08/18/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Carbon.

Contiguous Counties: Utah, Duchesne, Emery, Sanpete, Uintah, Utah.

The Interest Rates are:

For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.125
Homeowners Without Credit Available Elsewhere	2.063
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14188 B and for economic injury is 14189 0.

The States which received an EIDL Declaration # are Utah

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 18, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–28334 Filed 12–1–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14138 and #14139]

California Disaster # CA–00225

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Administrative disaster declaration for the State of CALIFORNIA dated 10/01/2014.

Incident: Boles Fire,

Incident Period: 09/15/2014 and continuing through 10/09/2014,

Effective Date: 11/13/2014,

Physical Loan Application Deadline Date: 12/01/2014,

Economic Injury (EIDL) Loan Application Deadline Date: 07/01/2015,

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Administrative disaster declaration for the State of California, dated 10/01/2014 is hereby amended to establish the incident period for this disaster as beginning 09/15/2014 and continuing through 10/09/2014.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 13, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–28332 Filed 12–1–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14190 and #14191]

Louisiana Disaster #LA–00053

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Louisiana dated 11/18/2014.

Incident: Severe Weather and Tornadoes.

Incident Period: 10/13/2014.

Effective Date: 11/18/2014.

Physical Loan Application Deadline Date: 01/20/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 08/18/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Ouachita.

Contiguous Counties:

Louisiana: Caldwell; Jackson; Lincoln; Morehouse; Richland; Union.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.125

[9] 17 CFR 200.30–3(a)(12).

	Percent
Homeowners Without Credit Available Elsewhere	2.063
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14190B and for economic injury is 141910.

The State which received an EIDL Declaration # is LOUISIANA.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 18, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–28333 Filed 12–1–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14132 and #14133]

Michigan Disaster Number MI–00046

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Michigan (FEMA–4195–DR), dated 09/25/2014.

Incident: Severe STORMS AND FLOODING.

Incident Period: 08/11/2014 through 08/13/2014.

Effective Date: 11/17/2014.

Physical Loan Application Deadline Date: 12/15/2014.

EIDL Loan Application Deadline Date: 06/25/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Michigan, dated 09/25/2014 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 12/15/2014.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2014–28331 Filed 12–1–14; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2014–0057]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Department of Homeland Security (DHS))—Match Number 1010

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of an existing computer matching program that will expire on January 18, 2015.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with DHS.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Kirsten J. Moncada,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA with the Department of Homeland Security (DHS)

A. Participating Agencies

SSA and DHS.

B. Purpose of the Matching Program

The purpose of this matching program is to set forth the terms, conditions, and safeguards under which DHS will disclose information to us for identifying aliens who leave the United States voluntarily and aliens who are removed from the United States. These aliens may be subject to suspension of payments or nonpayment of benefits or both. We will use DHS data to determine if suspension of payments or nonpayment of benefits is applicable.

C. Authority for Conducting the Matching Program

This agreement is executed under the Privacy Act of 1974, 5 U.S.C. 552a, as amended by the Computer Matching and Privacy Protection Act of 1988, as amended, and the regulations and guidance promulgated thereunder.

Legal authorities for the disclosures under this agreement are the Social Security Act (Act), 42 U.S.C. 402(n), 1382(f), 1382c(a)(1), and 1383(e)(1)(B) and (f), and the Immigration and Nationality Act (INA), 8 U.S.C. 1611 and 1612.

Section 1631(e)(1)(B) of the Act requires us to verify declarations of applicants for and recipients of Supplemental Security Income (SSI) payments before making a determination of eligibility or payment amount. Section 1631(f) of the Act requires Federal agencies to provide us with information necessary to verify SSI eligibility or benefit amounts or to verify other information related to these determinations. Section 202(n)(2) of the Act requires the Secretary of Homeland Security to notify the Commissioner of Social Security when certain individuals are removed from the United States under sections 212(a)(6)(A) and 237(a) of the INA.

D. Categories of Records and Persons Covered by the Matching Program

1. Aliens Who Leave the United States Voluntarily (SSI)

DHS will disclose to us information from the Benefit Information System (BIS) system of records, DHS/USCIS–007, 73 FR 56596 (September 29, 2008). DHS will electronically format the BIS data for transmission to us. BIS data is comprised of data collected from the United States Citizenship and Immigration Services (USCIS) immigration systems. USCIS data to be used to accomplish this matching agreement currently comes from the CLAIMS 3 Mainframe database.

We will match the DHS information with our systems of records: Master Files of Social Security Number (SSN) Holders and SSN Applications (Enumeration System), SSA/OEEAS 60–0058, last published on December 29, 2010 (75 FR 82121), and the Supplemental Security Income Record and Special Veterans Benefits (SSIR/SVB or SSR), SSA/OASSIS 60–0103, last published on January 11, 2006 (71 FR 1830).

2. Aliens Who Are Removed From the United States (RSDI and SSI)

DHS will disclose to us information from Immigration and Enforcement Operational Records System (ENFORCE), DHS/ICE–011, 75 FR 23274, last published on May 3, 2010. DHS will retrieve information on removed aliens from the DHS database known as the Enforcement Integrated Database (EID) and electronically format it for transmission to SSA.

Our systems of records used in the match are the Master Files of Social Security Number (SSN) Holders and SSN Applications, (Enumeration System), SSA/OEEAS, 60–0058, last published on December 29, 2010 (75 FR 82121), the Supplemental Security Income Record and Special Veterans Benefits (SSR), SSA/ODSSIS, 60–0103, last published on January 11, 2006 (71 FR 1830), the Master Beneficiary Record (MBR), SSA/OEEAS 60–0090, last published on January 11, 2006 (71 FR 1826) and the Prisoner Update Processing System (PUPS), SSA/OPB 60–0269, last published on March 8, 1999 (64 FR 11076). The Unverified Prisoner System (UPS) is a subsystem of PUPS. UPS users perform a manual search of fallout cases where the Enumeration and Verification System is unable to locate an SSN for an alien deportee.

3. Under an existing Interagency Agreement (IAA) between SSA and DHS, we have automated access to the DHS Systematic Alien Verification for Entitlements (SAVE) program that utilizes the VIS, DHS–USCIS–004, 77 FR 47415 (August 8, 2012). This system of records provides information on the current immigration status of aliens who have Alien Identification Numbers ("A" number). We will use the automated access to the SAVE program to verify current immigration status of aliens where the immediate EID match or any future claims activity indicate an alien has been removed or deported. The parties do not consider this verification as a separate match subject to the provisions of the CMPPA; the parties will conduct such verifications in compliance with the terms of the aforementioned IAA.

The systems of records involved in this computer matching program have routine uses permitting the disclosures needed to conduct this match.

E. Inclusive Dates of the Matching Program

The effective date of this matching program is January 19, 2015, provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and, if both agencies meet certain conditions, it may extend for an additional 12 months thereafter.

[FR Doc. 2014–28327 Filed 12–1–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8961]

60-Day Notice of Proposed Information Collection: DS–4131 ADVANCE NOTIFICATION FORM: Tourist and Other Non-Governmental Activities in the Antarctic Treaty Area, 1405–0181

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- Title of Information Collection: ADVANCE NOTIFICATION FORM: Tourist and Other Non-Governmental Activities in the Antarctic Treaty Area.
- OMB Control Number: 1405–0181.
- Type of Request: Extension of a Currently Approved Collection.
- Originating Office: Bureau of Oceans and International Environmental and Scientific Affairs, Office of Ocean and Polar Affairs (OES/OPA).
- Form Number: DS–4131.
- Respondents: Operators of Antarctic expeditions organized in or proceeding from the United States.
- Estimated Number of Respondents: 25.
- Estimated Number of Responses: 25.
- Average Hours Per Response: 10.5.
- Total Estimated Burden: Approx. 260 hours.
- Frequency: On occasion.
- Obligation to Respond: Voluntary.

DATES: The Department will accept comments from the public up to 60 days from December 2, 2014.

ADDRESSES: You may submit comments by any of the following methods:

- Email: *SchandlbauerAX@state.gov.*
- Mail (paper, disk, or CD–ROM submissions): Alfred Schandlbauer, Office of Ocean and Polar Affairs, Room 2665, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State, 2201 C Street NW., Washington, DC 20520
- Fax: 202.647.4353

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Alfred Schandlbauer, Office of Ocean and Polar Affairs, Room 2665, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. He may be reached on *202.647.0237* or at *SchandlbauerAX@state.gov*.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection:

Information solicited on the Advance Notification Form (DS–4131) provides the U.S. Government with information on tourist and other non-governmental expeditions to the Antarctic Treaty area. The U.S. Government needs this information to comply with Article VII(5)(a) of the Antarctic Treaty and associated documents.

Methodology:

Information will be submitted by U.S. organizers of tourist and other non-governmental expeditions to Antarctica. Copies should be submitted via email, although signed originals are also valid.

Dated: November 25, 2014.

Evan T. Bloom,

Director, Office of Ocean and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State.

[FR Doc. 2014–28407 Filed 12–1–14; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 8960]

International Security Advisory Board (ISAB) Meeting Notice

Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App § 10(a)(2), the Department of State announces a meeting of the International Security Advisory Board (ISAB) to take place on January 15, 2015, at the Department of State, Washington, DC.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App § 10(d), and 5 U.S.C. 552b(c)(1), it has been determined that this Board meeting will be closed to the public because the Board will be reviewing and discussing matters properly classified in accordance with Executive Order 13526. The purpose of the ISAB is to provide the Department with a continuing source of independent advice on all aspects of arms control, disarmament, nonproliferation, political-military affairs, international security, and related aspects of public diplomacy. The agenda for this meeting will include classified discussions related to the Board's studies on current U.S. policy and issues regarding arms control, international security, nuclear proliferation, and diplomacy.

For more information, contact Richard W. Hartman II, Executive Director of the International Security Advisory Board, U.S. Department of State, Washington, DC 20520, telephone: (202) 736–4290.

Dated: November 13, 2014.

Richard W. Hartman, II,

Executive Director, International Security Advisory Board, U.S. Department of State.

[FR Doc. 2014–28409 Filed 12–1–14; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 8959]

International Telecommunication Advisory Committee; Solicitation of Membership

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The U.S. Coordinator for International Communications and Information Policy ("the Coordinator"), in the U.S. Department of State Bureau of Economic and Business Affairs, is accepting applications for membership on the International Telecommunication Advisory Committee (ITAC).

DATES: Applications must be received by the Department of State (at the email addresses at the end of this Notice) not later than December 16, 2014.

FOR FURTHER INFORMATION CONTACT: Franz Zichy, at *zichyfj@state.gov*.

SUPPLEMENTARY INFORMATION: The Department of State is soliciting applications from subject matter experts who are representatives of scientific or industrial organizations that are engaged in the study of telecommunications or in the design or manufacture of equipment intended for telecommunication services, representatives of civil society organizations and academia, and representatives of any other corporation or organization engaged in telecommunications and information policy matters. Applicants should include experience participating in international organizations addressing telecommunications and information technical and policy issues and assisting with U.S. involvement with such issues.

The ITAC is a Federal advisory committee under the authority of 22 U.S.C. 2651a and 2656 and the Federal Advisory Committee Act, 5 U.S.C. Appendix. ("FACA"). The purpose of the ITAC is to advise the Coordinator and the Department of State with respect to, and provide strategic planning recommendations on, telecommunication and information policy matters related to U.S. participation in the work of the International Telecommunication Union (ITU), the Organization of American States Inter-American Telecommunication Commission (CITEL), the Organization for Economic Cooperation and Development (OECD), the Asia Pacific Economic Cooperation Telecommunication & Information Working Group (APEC TEL) and other international bodies addressing telecommunications.

Members are appointed by the Coordinator and must be U.S. citizens or legal permanent residents of the United States, appointed as representatives of U.S. organizations. To ensure diversity in advice, ITAC membership will include not more than one representative from any affiliated agency or organization so long as the threshold of no fewer than 50 members is met. ITAC members will represent the views of their organizations. The ITAC charter calls for representative members; therefore, a prospective member must represent a company or organization. Solo members (who "represent themselves") will not be selected. ITAC members must be versed in the complexity of international telecommunications issues and must be able to advise the Coordinator and the Department on these matters. Members are expected to use their expertise and provide candid advice.

Please note that ITAC members will not be reimbursed for travel, per diem,

and other expenses incurred in connection with their duties as ITAC members. For those interested in applying: The ITAC currently intends to hold a meeting on or about January 14, 2015. A separate **Federal Register** notice will be published to announce the details of that meeting.

How to apply: Email applications in response to this notice to the addresses at the end of this notice. Applications must contain the following information: (1) Name of applicant; (2) citizenship of the applicant; (3) organizational affiliation and title, as appropriate; (4) mailing address; (5) work telephone number; (6) email address; (7) résumé; (8) summary of qualifications for ITAC membership and (9) confirmation that your organization or company expects you to represent their interests.

This information should be emailed to: *zichyfj@state.gov* and *jacksonln@state.gov.*

Dated: November 25, 2014.

Doreen F. McGirr,

Telecom Officer.

[FR Doc. 2014–28411 Filed 12–1–14; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Dubois Regional Airport, Reynoldsville, Pennsylvania

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Dubois Regional Airport, Reynoldsville, Pennsylvania under the provision 49 U.P.C. 47125(a).

DATES: Comments must be received on or before January 2, 2015.

ADDRESSES: Comments on this application may be mailed or delivered to the following address: Robert W. Shaffer, Airport Manager, Dubois Regional Airport, 377 Aviation Way, Reynoldsville, Pennsylvania 15851; and at the FAA Harrisburg Airports District Office: Lori K. Pagnanelli, Manager, Harrisburg Airports District Office, 3905 Hartzdale Dr., Suite 508, Camp Hill, PA 17011.

FOR FURTHER INFORMATION CONTACT: Charles Trice, Civil Engineer, Harrisburg Airports District Office, location listed above.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release airport property at the Dubois Regional Airport under the provisions of Section 47125(a) of Title 49 U.S.C. On November 24, 2014, the FAA determined that the request to release airport property at the Dubois Regional Airport (DUJ), Pennsylvania, submitted by the Clearfield-Jefferson Counties Regional Airport Authority (Authority), met the procedural requirements.

The following is a brief overview of the request: The Authority requests the release of two parcels of non-aeronautical airport property totaling approximately 10.26 acres. Both parcels are located in Washington Township, and were originally included as part of a larger 53.5-acre property purchased with federal funds in 1988, under AIP Grant No. 3–24–0023–05–88. A total of 10.26 acres are no longer needed for aeronautical purposes.

The first parcel consists of approximately 5.05 acres, and is requested for release to Cactus Wellhead, LLC (Cactus) of Reynoldsville, Pennsylvania. The property is in the northeast corner of the existing Air Commerce Park adjacent to the Airport, west of Aviation Way, and south of Pennsylvania State Route 830. Cactus is proposing to use the 5.05-acre property to construct a building, a parking lot, and other ancillary facilities in support of its existing operation at the Airport.

The second parcel consists of approximately 5.21 acres, and is requested for release to Corbin Holdings, LLC (Corbin) of Reynoldsville, Pennsylvania. The undeveloped property is the northernmost parcel of obligated property at the Airport, and it is the only airport property located north of State Route 830. As such, it is not contiguous to other airport property, including those parcels which form the Air Commerce Park. There is no plan for development of the subject property. A conservation easement will be included in the deed that will restrict any surface uses other than compatible agricultural or wetland maintenance.

As shown on the Airport Layout Plan, neither property serves an aeronautical purpose, nor are they needed for airport development. All proceeds from the sale of the properties are to be used toward funding the federal share of AIP eligible projects only. Fair Market Value (FMV) rate will be obtained from the land sale of each property.

Any person may inspect the request by appointment at the FAA office address listed above. Interested persons are invited to comment on the proposed lease. All comments will be considered by the FAA to the extent practicable.

Issued in Camp Hill, Pennsylvania, November 24, 2014.

Lori K. Pagnanelli,

Manager, Harrisburg Airports District Office.

[FR Doc. 2014–28360 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In September 2014, there were two applications approved. Additionally, 21 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L.101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Jackson Municipal Airport Authority, Jackson, Mississippi.

Application Number: 14–06–C–00–JAN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved In This Decision: $38,832,254.

Earliest Charge Effective Date: September 1, 2015.

Estimated Charge Expiration Date: February 1, 2031.

Class Of Air Carriers Not Required To Collect PFC's: All air taxi/commercial operators filing FAA Form 1800–31 and operating at Jackson-Medgar Wiley Evers International Airport (JAN).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at JAN.

Brief Description Of Projects Approved For Collection And Use:

North roadway paving.

Terminal improvements.

Boiler plant modification engineering and construction.

Electrical vault improvements engineering and construction.

Replacement of fixed mounted boarding bridges at gates 2 and 16.

Interactive employee training system updates.

Airport entrance and terminal roadway system rehabilitation—engineering services.

PFC development and implementation.

Brief Description Of Projects Partially Approved For Collection And Use: Standby power engineering and construction.

Determination: Partially approved. The FAA determined that this project was only 67 percent eligible based on a pro-ration of the eligible versus ineligible areas served by the standby power system. In addition, the FAA determined that two other project components were not eligible for PFC funding.

Rehabilitation of aircraft aprons.

Determination: Partially approved. The PFC amount was reduced from that requested because, after the PFC application had been submitted, the public agency received additional, unplanned AIP funds to pay an additional portion of the project.

Rehabilitation of runway 16R/34L—engineering services.

Determination: Partially approved. The Project originally requested both engineering services and construction. However, the FAA found that the construction component of the project was not sufficiently described and so, did not approve that component.

Rehabilitation of taxiways A, B and C—engineering services.

Determination: Partially approved. The Project originally requested both engineering services and construction. However, the FAA found that the construction component of the project was not sufficiently described and so, did not approve that component.

Decision Date: September 2, 2014.

FOR FURTHER INFORMATION CONTACT: Brian Hendry, Jackson Airports District Office, (601) 664–9897.

Public Agency: Kent County Department of Aeronautics, Grand Rapids, Michigan.

Application Number: 14–06–C–00–GRR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved In This Decision: $2,214,234.

Earliest Charge Effective Date: January 1, 2023.

Estimated Charge Expiration Date: June 1, 2023.

Class Of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Gerald R. Ford International Airport.

Brief Description Of Project Approved For Collection And Use: Concourse and concession expansion.

Brief Description Of Project Partially Approved For Collection And Use: Consolidated security screening checkpoint—design only.

Determination: Partially approved. The approved amount is less than was originally requested for three reasons: (1) The public agency provided an updated cost estimate after submission of the application which showed reduced project costs; (2) the FAA determined that the project was only 44 percent, and not the 100 percent requested, eligible for PFC funding; and (3) the public agency modified its financing plan for this project after the air carrier consultation and public notice processes were complete but did not undertake new air carrier consultation and public notice processes.

Decision Date: September 4, 2014.

FOR FURTHER INFORMATION CONTACT: Irene Porter, Detroit Airports District Office, (734) 229–2915.

Amendments to PFC Approvals

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
07–03–C–03–HRL Harlingen, TX	09/04/14	$3,876,104	3,401,949	07/01/09	07/01/09
14–06–C–01–ILM Wilmington, NC	09/05/14	7,947,596	7,972,225	08/01/24	08/01/24
02–05–C–01–CPR Casper, WY	09/08/14	2,590,000	2,100,907	11/01/11	10/01/10
10–06–C–01–CPR Casper, WY	09/08/14	300,545	282,017	08/01/14	03/01/12
07–05–C–01–ACY Egg Harbor Township, NJ	09/10/14	5,416,359	5,416,159	06/01/09	04/01/09
03–05–C–02–AOO Martinsburg, PA	09/10/14	208,710	186,055	12/01/11	12/01/11
11–08–C–02–AVP Avoca, PA	09/10/14	5,036,660	4,805,475	11/01/20	11/01/20
07–01–C–01–CDC Cedar City, UT	09/10/14	229,900	121,704	10/01/11	10/01/11
02–05–C–09–BGM Johnson City, NY	09/16/14	1,953,941	1,111,784	07/01/05	07/01/05
03–06–C–05–BGM Johnson City, NY	09/16/14	7,601	7,601	08/01/05	08/01/05
04–07–C–05–BGM Johnson City, NY	09/16/14	559,849	425,339	04/01/04	07/01/05
04–07–C–06–BGM Johnson City, NY	09/16/14	425,339	559,849	07/01/05	12/01/05
05–08–C–04–BGM Johnson City, NY	09/16/14	889,771	961,270	02/01/08	02/01/08
06–09–C–02–BGM Johnson City, NY	09/16/14	117,573	45,053	01/01/09	09/01/08
08–11–C–02–BGM Johnson City, NY	09/16/14	165,264	164,927	09/01/12	09/01/12
09–12–C–02–BGM Johnson City, NY	09/16/14	15,421	14,867	10/01/12	10/01/12
96–02–C–02–CAK Akron, OH	09/18/14	1,841,810	1,681,807	03/01/98	03/01/98
98–03–C–02–CAK Akron, OH	09/18/14	1,748,860	1,748,697	09/01/99	09/01/99
96–04–C–07–MCO Orlando, FL	09/22/14	94,799,455	88,318,039	06/01/98	12/01/97
96–04–C–08–MCO Orlando, FL	09/22/14	88,318,039	87,519,900	12/01/97	12/01/97
99–06–C–03–MCO Orlando, FL	09/22/14	86,619,348	86,619,348	04/01/03	04/01/03

Issued in Washington, DC, on November 21, 2014.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2014–28239 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for the use of non-domestic 20″ Trunnion mounted steel ball valve (ASCI 300/API 6D/ASME 318) on Federal-aid project HYSDOT PIN#0756.56 in the State of New York.

DATES: The effective date of the waiver is December 3, 2014.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov*. For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, (202) 366–1373, or via email at *Jomar.Maldonado@dot.gov*. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate to use non-domestic 20″ Trunnion mounted steel ball valve (ASCI 300/API 6D/ASME 318) in the State of New York.

In accordance with Division A, section 122 of the "Consolidated and Further Continuing Appropriations Act, 2012" (Pub. L. 112–55), the FHWA published a notice of intent to issue a waiver on its Web site for non-domestic 20″ Trunnion mounted steel ball valve (ASCI 300/API 6D/ASME 318) (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=99*) on September 23rd. The FHWA received no comments in response to the publication. During the 15-day comment period, the FHWA conducted additional nationwide review to locate potential domestic manufacturers of the 20″ Trunnion mounted steel ball valve (ASCI 300/API 6D/ASME 318). Based on all the information available to the Agency, the FHWA concludes that there are no domestic manufacturers of the 20″ Trunnion mounted steel ball valve (ASCI 300/API 6D/ASME 318).

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), the FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the link provided to the New York waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410.

Issued on: November 21, 2104.

Gregory G. Nadeau,

Acting Administrator, Federal Highway Administration.

[FR Doc. 2014–28349 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind a Notice of Intent and Draft Environmental Impact Statement: US 60 Superior to Globe Corridor Improvement/Realignment Study; Pinal and Gila Counties, Arizona.

AGENCY: Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Notice to rescind a Notice of Intent and Draft Environmental Impact Statement.

SUMMARY: The FHWA is issuing this notice to advise the public that FHWA and the Arizona Department of Transportation (ADOT) will not prepare an Environmental Impact Statement (EIS) for the proposed improvements or rerouting of US Highway (US) 60 in Pinal and Gila counties, Arizona. A Notice of Intent to prepare an EIS was published in the **Federal Register** on April 30, 2009.

FOR FURTHER INFORMATION CONTACT: Thomas Deitering, Project Delivery Team Leader, Federal Highway Administration, Arizona Division Office, 4000 North Central Avenue, Suite 1500, Phoenix, Arizona 85012, Telephone: (602) 382–8971, FAX: (602) 382–8998, Email: *Thomas.Deitering@dot.gov;* or Rebecca Yedlin, Environmental Coordinator, Federal Highway Administration, Arizona Division Office, 4000 North Central Avenue, Suite 1500, Phoenix, Arizona 85012, Telephone: (602) 382–8979, FAX: (602) 382–8998, Email: *Rebecca.Yedlin@dot.gov*.

The FHWA Arizona Division Office's normal business hours are 8:00 a.m. to 5:00 p.m. (Moutain Standard Time).

SUPPLEMENTARY INFORMATION: On April 30, 2009, the FHWA, in cooperation with ADOT, issued a Notice of Intent (NOI) titled: "Environmental Impact Statement: Final (Pinal) and Gila Counties, AZ." The intent of the project was to improve and/or realign US 60 in Pinal and Gila counties, Arizona from west of Superior at approximately milepost (MP) 222.6 to east of Globe at approximately MP 258.0. The US 60 Corridor bisects the towns of Superior and Miami as well as the city of Globe. The project was issued a Federal Aid Number STP–060–D(214)A and an ADOT project number 060 GI 222 H7162 01L.

A No-Build Alternative and several Build Alternatives were being considered in the EIS for the Design Year 2040. The No-Build Alternative served as the baseline for the analysis conducted under the National Environmental Policy Act (NEPA).

The design and construction of separate widening and passing lane projects within the study corridor have commenced since the initiation of this study which have or will improve driving conditions for the traveling public. Additionally, funding to complete the study is not available. As such, the preparation of the EIS for the US 60 Superior to Globe Corridor Improvement/Realignment Study is being terminated. Any future transportation improvements or realignments of US 60 throughout this corridor will be determined and prioritized through ADOT's Long Range

and 5-Year Transportation Plans, and any future actions will progress under a separate environmental review process, in accordance with all applicable laws and regulations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Dated: November 25, 2014.

Karla S. Petty,

FHWA Arizona Division Administrator, Phoenix, AZ.

[FR Doc. 2014–28366 Filed 12–1–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2012–0033]

Notice of Intent To Grant Buy America Waivers to National Railroad Passenger Corporation and California High-Speed Rail Authority for the Non-Domestic Final Assembly of Four "Prototype" Tier III High-Speed Rail Trainsets

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

ACTION: Notice of intent to grant Buy America waivers.

SUMMARY: FRA is issuing this notice to advise the public that it intends to grant the National Railroad Passenger Corporation (Amtrak) and California High-Speed Rail Authority (Authority) waivers from FRA's Buy America requirement for the non-domestic final assembly of up to four (two for Amtrak; two for the Authority) "prototype" Tier III high-speed rail (HSR) trainsets in connection with the procurement of HSR trainsets. These waivers apply only to the final assembly of up to two prototype HSR trainsets each for Amtrak and the Authority. Each waiver is subject to the following condition: Before issuing a "Notice To Proceed" to any selected supplier, Amtrak and the Authority each must certify and provide support to FRA that its selected supplier still has not established domestic manufacturing facilities capable of assembling the prototypes and delivering them within a reasonable time. All components used in the prototypes must still be domestically manufactured or separate waivers for components requested and granted before assembly of the prototypes can commence.

DATES: Written comments on FRA's determination to grant Amtrak's and the Authority's Buy America waiver requests should be provided to the FRA on or before December 17, 2014.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FRA–2012–0033. All electronic submissions must be made to the U.S. Government electronic site at *http://www.regulations.gov.* Commenters should follow the instructions below for mailed and hand-delivered comments.

(1) *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site;

(2) *Fax:* (202) 493–2251;

(3) *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, Room W12–140, Washington, DC 20590–0001; or

(4) *Hand Delivery:* Room W12–140 on the first floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the "Federal Railroad Administration" and include docket number FRA–2012–0033. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov.* For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John Johnson, Attorney-Advisor, FRA Office of Chief Counsel, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590, (202) 493–0078, *John.Johnson@dot.gov.*

SUPPLEMENTARY INFORMATION:

FRA is issuing this notice to advise the public that it intends to grant Amtrak's and the Authority's requests for waivers from FRA's Buy America requirement, 49 U.S.C. 24405(a), for the non-domestic final assembly of up to four (two for Amtrak; two for the Authority) "prototype" Tier III high-speed rail (HSR) trainsets in connection with the procurement of HSR trainsets. These "prototype" Tier III HSR trainsets will be delivered to Amtrak and the Authority for use in passenger (revenue) service. Please note that the Federal Transit Administration (FTA) would use the term "pilot" to describe these vehicles. Because some time may elapse between granting these waivers and construction of prototype HSR trainsets, each waiver has the following condition: Before issuing a "Notice To Proceed" to any selected supplier, Amtrak and the Authority each must certify and provide support to FRA that its selected supplier still has not established domestic manufacturing facilities capable of assembling the prototypes and delivering them within a reasonable time. In addition, all components used in the prototypes must still be domestically manufactured or separate waivers for components requested and granted before assembly of the prototypes can commence.

The larger projects underlying these waiver requests are Amtrak's and the Authority's plans to advance HSR on the Northeast Corridor and in California, respectively. In near identical waiver requests Amtrak and the Authority asserted that the projects require the purchase and use of high-quality, service-proven FRA Tier III Next Generation Trainsets, including two prototype HSR trainsets for each project.

FRA's Buy America requirement for rolling stock, including HSR trainsets, requires domestic final assembly of the trainsets and that all of the components be manufactured in the United States. More information about FRA's Buy America requirement is available at *http://www.fra.dot.gov/Page/P0185.* Section 24405(a)(2) also permits the Secretary of Transportation (delegated to the FRA Administrator) to waive the Buy America requirements if the Secretary finds that: (A) applying paragraph (1) would be inconsistent with the public interest; (B) the steel, iron, and goods manufactured in the United States are not produced in sufficient and reasonably available amount or are not of a satisfactory quality; (C) rolling stock or power train equipment cannot be bought or delivered to the United States within a reasonable time; or (D) including domestic material will increase the cost of the overall project by more than 25 percent.

FRA believes a waiver is appropriate under 49 U.S.C. 24405(a)(2)(C) because domestically-produced HSR trainsets meeting the specific technical, design, and schedule needs of Amtrak and the

Authority are not currently available in the United States. There is no assembly or testing facility for HSR trainsets operating at speeds greater than 160 mph in the United States. Moreover, FRA estimates that it could take HSR trainset manufacturers a minimum of one-and-a-half to two years to establish the required facilities to support a domestic HSR trainset assembly capability. This includes any HSR trainset manufacturers that currently have passenger railcar manufacturing facilities in the United States. For example, in addition to acquiring specialized machinery and training and hiring the workforce, these manufacturers' plants are currently customized for steel railcars, and HSR trainsets use aluminum, which requires different manufacturing techniques.

In addition, Tier III HSR is a significant new technology for the U.S. market, and safety is a significant factor. Allowing final assembly of the prototype HSR trainsets at the manufacturer's existing non-domestic facilities is necessary to ensure that expected safety benefits of "service-proven" systems are secured, to enable training of domestic workers, and to assure successful technology transfer. For example, rather than attempting to establish new manufacturing and assembly processes at a domestic facility while simultaneously integrating and testing HSR trainset designs, the selected manufacturer(s) can focus on identifying and remedying any defects in the designs specific to Amtrak and the Authority and their operations in the United States. FRA concludes that integrating manufacturing, assembly, and labor resources into the prototype production, among other suggested actions by Amtrak and the Authority, will facilitate the development of domestic HSR production facilities. This same "human technology transfer" has been successful in other global HSR installations in South Korea, China, Taiwan, and Spain.

On March 14, 2014, FRA published on its Web site public notice of Amtrak's and the Authority's waiver requests. FRA received 13 online comments and one mailed response to this notice. None of the commenters identified a domestic source for HSR trainsets. Of the 14 comments, 10 commenters indicated they were against granting the waiver; four were for granting the waiver. Of the 10 comments "against," four were not responsive to the notice. Of the six remaining dissenters, they mainly disagreed with Amtrak's and the Authority's argument that HSR trainsets cannot be delivered in a reasonable time because Amtrak and the Authority could wait for domestic assembly. While this is theoretically possible, significant capacity and technology transfer problems are probable, and FRA believes that the one-and-a-half to two-year minimum delay could negatively impact the schedules proposed by Amtrak and the Authority. In addition, as noted above, FRA believes that allowing the prototypes to be assembled at the manufacturers' non-domestic factories will facilitate the successful technology transfer and training of U.S. workers. Finally, because FRA is limiting the waivers to final assembly of up to four prototypes with the expectation that the training of domestic resources will occur simultaneously, FRA is not delaying or preventing the establishment of the selected supplier's domestic assembly facilities. FRA finds that this delay to provide "service-proven" systems makes the prototypes not available within a "reasonable time." Therefore, waivers are appropriate.

FRA will publish the letters granting Amtrak's and the Authority's waiver requests on its Web site at: *http://www.fra.dot.gov/eLib/Details/L16035* and *http://www.fra.dot.gov/eLib/Details/L16036*, respectively.

Issued in Washington, DC on November 26, 2014.

Melissa L. Porter,

Chief Counsel.

[FR Doc. 2014–28365 Filed 12–1–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 26, 2014.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before January 2, 2015 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov*, or the entire information collection request maybe found at *www.reginfo.gov*.

Internal Revenue Service (IRS)

OMB Number: 1545–0003.

Type of Review: Revision of a currently approved collection.

Title: Forms SS–4—Application for Employer Identification Number; SS–4PR, Solicitud de Numero de Identificacion Patronal (EIN)

Form: SS–4, SS4–PR

Abstract: Taxpayers required to have an identification number for use on any return, statement, or other document must prepare and file Form SS–4 or Form SS–4–PR (Puerto Rico only) to obtain a number. The information is used by the IRS and the SSA in tax administration and by the Bureau of the Census for business statistics. The estimated burden has been reduced by 15,038,797 hours in order to correct an error in the previous calculation.

Affected Public: Private sector: Businesses or other For-Profit Institutions.

Estimated Total Burden Hours: 903,116.

OMB Number: 1545–1244.

Type of Review: Revision of a currently approved collection.

Title: T.D. 9013 Limitation on Passive Activity Losses and Credits- Treatment on Self-Charged Items of Income and Expense.

Abstract: These regulations provide guidance on the treatment of self-charged items of income and expense under section 469. The regulations re-characterize a percentage of certain portfolio income and expense as passive income and expense (self-charged items) when a taxpayer engages in a lending transaction with a partnership or an S corporation (passthrough entity) in which the taxpayer owns a direct or indirect interest and the loan proceeds are used in a passive activity. Similar rules apply to lending transactions between two identically owned passthrough entities. These final regulations affect taxpayers subject to the limitations on passive activity losses and credits. There is a reduction in 50 hours to the annual estimate to correct an error in the previous calculation.

Affected Public: Private sector: Business or other for-profits.

Estimated Total Burden Hours: 100.

OMB Number: 1545–1424.

Type of Review: Extension of a currently approved collection.

Title: Form 1099–C—Cancellation of Debt

Form: 1099–C

Abstract: Form 1099–C is used for reporting canceled debt, as required by section 6050P of the Internal Revenue Code. It is used to verify that debtors are correctly reporting their income.

Affected Public: Private Sector: Businesses or other For-Profit Institutions.

Estimated Total Burden Hours: 854,892.

OMB Number: 1545–1491.

Type of Review: Extension of a currently approved collection.

Title: T.D. 8746—Amortizable Bond Premium.

Abstract: This regulation addresses the tax treatment of bond premium. The regulation provides that a holder may make an election to amortize bond premium by offsetting interest income with bond premium, and the holder must attach a statement to their tax return providing certain information. The regulation also provides that a taxpayer may receive automatic consent to change its method of accounting for premium provided the taxpayer attaches a statement to its tax return. The information requested is necessary for the IRS to determine whether an issuer or a holder has changed its method of accounting for premium.

Affected Public: Private sector: Business or other for-profits.

Estimated Total Burden Hours: 7,500.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. 2014–28359 Filed 12–1–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0085]

Proposed Information Collection (Appeal to Board of Veterans' Appeals) Activity Comment Request

AGENCY: Board of Veterans' Appeals, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Board of Veterans' Appeals (BVA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to process appeals for denial of VA benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 2, 2015.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Sue Hamlin, Board of Veterans' Appeals (01C2), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *sue.hamlin@va.gov.* Please refer to "OMB Control No. 2900–0085" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Sue Hamlin at (202) 632–5100.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, BVA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of BVA's functions, including whether the information will have practical utility; (2) the accuracy of BVA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Appeal to Board of Veterans' Appeals, VA Form 9.

b. Withdrawal of Services by a Representative.

c. Request for Changes in Hearing Date.

d. Motions for Reconsideration.

OMB Control Number: 2900–0085.

Type of Review: Extension of a currently approved collection.

Abstract:

a. Appeal to Board of Veterans' Appeals, VA Form 9, may be used by appellants to complete their appeal to the Board of Veterans' Appeals (BVA) from a denial of VA benefits. The information is used by BVA to identify the issues in dispute and prepare a decision responsive to the appellant's contentions and the legal and factual issues raised.

b. Withdrawal of Services by a Representative: When the appellant's representative withdraws from a case, both the appellant and the BVA must be informed so that the appellant's rights may be adequately protected and so that the BVA may meet its statutory obligations to provide notice to the current representative.

c. Request for Changes in Hearing Date: VA provides hearings to appellants and their representatives, as required by basic Constitutional due-process and by Title 38 U.S.C. 7107(b). From time to time, hearing dates and/or times are changed, hearing requests withdrawn and new hearings requested after failure to appear at a scheduled hearing. The information is used to comply with the appellants' or their representatives' requests.

d. Motions for Reconsideration: Decisions by BVA are final unless the Chairman orders reconsideration of the decision either on the Chairman's initiative, or upon motion of a claimant. The Board Chairman, or his designee, uses the information provided in deciding whether reconsideration of a Board decision should be granted.

Affected Public: Individuals or households, Business or other for profit, and Not for profit institutions.

Estimated Total Annual Burden:

a. Appeal to Board of Veterans' Appeals, VA Form 9—50,941 hours.

b. Withdrawal of Services by a Representative—183 hours.

c. Request for Changes in Hearing Date—1,343 hours.

d. Motions for Reconsideration—642 hours.

Estimated Average Burden Per Respondent:

a. Appeal to Board of Veterans' Appeals, VA Form 9—1 hour.

b. Withdrawal of Services by a Representative—20 minutes.

c. Request for Changes in Hearing Date—15 minutes (hearing date change), 15 minutes (request to withdraw a hearing),—1 hour (requests change a motion).

d. Motions for Reconsideration—1 hour.

Frequency of Response: On occasion.

Estimated Total Number of Respondents:

a. Appeal to Board of Veterans' Appeals, VA Form 9—50,941

b. Withdrawal of Services by a Representative—550.

c. Request for Changes in Hearing Date—3,070.

d. Motions for Reconsideration—642.

Dated: November 20, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–27848 Filed 12–1–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Allowance for Private Purchase of an Outer Burial Receptacle in Lieu of a Government-Furnished Graveliner for a Grave in a VA National Cemetery

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is updating the monetary allowance payable for qualifying interments that occur during calendar year 2015, which applies toward the private purchase of an outer burial receptacle (or "graveliner") for use in a VA national cemetery. The allowance is equal to the average cost of Government-furnished graveliners less any administrative costs to VA. The purpose of this Notice is to notify interested parties of the average cost of Government-furnished graveliners, administrative costs that relate to processing and paying the allowance and the amount of the allowance payable for qualifying interments that occur during calendar year 2015.

FOR FURTHER INFORMATION CONTACT: Tamula Jones, Budget Operations and Field Support Division, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Telephone: 202–461–6688 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 2306(e)(3) and (4) of title 38, United States Code authorizes VA to provide a monetary allowance for the private purchase of an outer burial receptacle for use in a VA national cemetery where its use is authorized. The allowance for qualified interments that occur during calendar year 2015 is the average cost of Government-furnished graveliners in fiscal year 2014, less the administrative costs incurred by VA in processing and paying the allowance in lieu of the Government-furnished graveliner.

The average cost of Government-furnished graveliners is determined by taking VA's total cost during a fiscal year for single-depth graveliners that were procured for placement at the time of interment and dividing it by the total number of such graveliners procured by VA during that fiscal year. The calculation excludes both graveliners procured and pre-placed in gravesites as part of cemetery gravesite development projects and all double-depth graveliners. Using this method of computation, the average cost was determined to be $327.00 for fiscal year 2014.

The administrative costs incurred by VA consist of those costs that relate to processing and paying an allowance in lieu of the Government-furnished graveliner. These costs have been determined to be $9.00 for calendar year 2015.

The allowance payable for qualifying interments occurring during calendar year 2015, therefore, is $318.00.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on November 24, 2014, for publication.

Dated: November 25, 2014.

William F. Russo,

Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2014–28259 Filed 12–1–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 635

Atlantic Highly Migratory Species; 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan; Amendment 7; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 635

[Docket No. 120328229–4949–02]

RIN 0648–BC09

Atlantic Highly Migratory Species; 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan; Amendment 7

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

ACTION: Final rule.

SUMMARY: This final rule implements Amendment 7 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) to ensure sustainable management of bluefin tuna consistent with the 2006 HMS FMP and address ongoing management challenges in the Atlantic bluefin tuna fisheries. This final rule also implements minor regulatory changes related to the management of Atlantic HMS. Amendment 7 management measures were developed by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). This final rule: Allocates U.S. bluefin tuna quota among domestic fishing categories; implements measures applicable to the pelagic longline fishery, including Individual Bluefin Quotas (IBQs), two new Gear Restricted Areas, closure of the pelagic longline fishery when annual bluefin tuna quota is reached, elimination of target catch requirements associated with retention of incidental bluefin tuna in the pelagic longline fishery, mandatory retention of legal-sized bluefin tuna caught as bycatch, expanded monitoring requirements, including electronic monitoring via cameras and bluefin tuna catch reporting via Vessel Monitoring System (VMS), and transiting provisions for pelagic and bottom longline vessels; requires VMS use and reporting by the Purse Seine category; changes the start date of the Purse Seine category from July 15 to a date within a range of June 1 to August 15, to be established by an annual action; requires use of the Automated Catch Reporting System by the General and Harpoon categories; provides additional flexibility for inseason adjustment of the General category quota and Harpoon category retention limits; and changes the allocation of the Angling category Trophy South subquota for the Gulf of Mexico. Finally, this rule implements several measures not directly related to bluefin tuna management, including a U.S. North Atlantic albacore tuna quota; modified rules regarding permit category changes; and minor changes in the HMS regulations for administrative or clarification purposes.

DATES: Effective January 1, 2015, except for § 635.9(b)(2)(ii), (e)(1), which are effective June 1, 2015; and § 635.15(b)(3), (b)(4)(ii), and (b)(5)(i), which are effective January 1, 2016.

ADDRESSES: Copies of Amendment 7 to the 2006 Consolidated HMS FMP, including the Final Environmental Impact Statement (FEIS), and other relevant documents are available from the HMS Management Division Web site at *http://www.nmfs.noaa.gov/sfa/hms/*.

FOR FURTHER INFORMATION CONTACT: Thomas Warren or Brad McHale at 978–281–9260.

SUPPLEMENTARY INFORMATION: The U.S. Atlantic tuna fisheries are managed under the 2006 Consolidated HMS FMP and regulations at 50 CFR part 635, pursuant to the authority of the Magnuson-Stevens Act and ATCA. Under ATCA, the Secretary shall promulgate such regulations as may be necessary and appropriate to carry out International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) final regulations, effective November 1, 2006, implementing the 2006 Consolidated HMS FMP, which details the management measures for Atlantic HMS fisheries, including the incidental and directed Atlantic bluefin tuna fisheries.

Background

A brief summary of the background of this final action is provided below. A more detailed history of the development of these regulations, and the alternatives considered, are described in Amendment 7 to the 2006 Consolidated HMS FMP Final Environmental Impact Statement (Amendment 7 FEIS, August, 2014), which can be found online at the HMS Web site noted above.

NMFS published a proposed rule on August 21, 2013 (78 FR, 52032), which proposed the "preferred alternatives" analyzed in the Draft Amendment 7 Environmental Impact Statement and solicited public comments on the measures, which were designed to address the following objectives: (1) Prevent overfishing of and rebuild bluefin tuna stock, achieve on a continuing basis optimum yield, and minimize bluefin bycatch to the extent practicable by ensuring that domestic bluefin tuna fisheries continue to operate within the overall total allowable catch (TAC) set by ICCAT consistent with the existing rebuilding plan; (2) optimize the ability for all permit categories to harvest their full bluefin quota allocations, account for mortality associated with discarded bluefin in all categories, maintain flexibility of the regulations to account for the highly variable nature of the bluefin fisheries, and maintain fairness among permit/quota categories; (3) reduce dead discards of bluefin tuna and minimize reductions in target catch in both directed and incidental bluefin fisheries, to the extent practicable; (4) improve the scope and quality of catch data through enhanced reporting and monitoring to ensure that landings and dead discards do not exceed the quota and to improve accounting for all sources of fishing mortality; and (5) adjust other aspects of the 2006 Consolidated HMS FMP as necessary and appropriate, including northern albacore tuna quota implementation.

On August 22, 2013 (78 FR 52123), NMFS published a notice in the **Federal Register** informing the public of the date and locations of public hearings on Amendment 7. From August 2013 to January 2014, NMFS conducted 11 public hearings, and consulted with the New England Fishery Management Council, the Gulf of Mexico Management Council, and the South Atlantic Fishery Management Council. The hearings were held in diverse locations in Atlantic and Gulf of Mexico coastal states. On August 30, 2013, the Environmental Protection Agency published a Notice of Availability of the draft environmental impact statement (DEIS) (78 FR 53754; August 30, 2013).

The August 21, 2013, Amendment 7 proposed rule set the end of the public comment period as October 23, 2013, but given the length and complexity of the rule, and to provide additional time for consideration of public comments in light of the November meeting of ICCAT, the end of the comment period was extended to December 10, 2013 (78 FR 57340; September 18, 2013). Subsequently, due to the government shutdown in October 2013, and NMFS' inability to respond to constituents

during that time frame and based on requests for an extension due to the complexity of the measures covered in the DEIS, NMFS again extended the end of the public comment period until January 10, 2014, to provide additional opportunity for informed comment (78 FR 75327; December 11, 2013). On December 26, 2013, NMFS published a **Federal Register** notice announcing a public hearing conference call and webinar to provide additional opportunity for the public from all geographic areas to comment (78 FR 78322).

The comments received on Draft Amendment 7 and its proposed rule, and responses to those comments, are summarized below in the section labeled "Response to Comments."

The bluefin tuna fishery is managed principally through a quota. Currently, NMFS implements and codifies the ICCAT-recommended U.S. quota through rulemaking, annually or bi-annually depending on the length of the relevant ICCAT recommendation. Also through rulemaking (the "quota specifications process") NMFS annually adjusts the U.S. baseline bluefin quota to account for any underharvest or overharvest of the adjusted U.S. quota from the prior year; specifies subquotas that result from application of the 2006 Consolidated HMS FMP allocations; and adjusts subquotas as appropriate following consideration of domestic management needs. NMFS must account not only for landings but for bluefin tuna discarded dead. NMFS estimates and accounts for dead discards in the pelagic longline fishery, which cannot target bluefin tuna but catches them while targeting swordfish and other tunas.

National Standard 1 requires that "conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry." The Magnuson-Stevens Act defines "optimum yield" as the amount of fish that, among other things, provides for rebuilding to a level consistent with producing the maximum sustainable yield from the fishery. In ATCA, Congress also directed NMFS to manage the bluefin fishery to ensure that NMFS provides U.S. fishing vessels "with a reasonable opportunity to harvest such allocation, quota, or at such fishing mortality level. . . ." This rule builds upon an extensive regulatory framework for management of the domestic bluefin fishery pursuant to the 20-year rebuilding program adopted in the 1999 FMP and continued under the 2006 Consolidated HMS FMP. As described below, the final rule measures were designed to allow fishery participants to fully harvest, but not exceed, the U.S. bluefin quota by refining the existing management tools. NMFS is implementing a detailed, multi-level approach to resolving challenges in administering and carrying out the current quota system, which, if left unaddressed, may otherwise result in overharvests of the U.S. quota in the future. These final rule measures directly support the goals of reducing overfishing, rebuilding the western bluefin stock, and achieving optimum yield by ensuring that the fishery continues to be managed within the ICCAT-approved TAC, and consistent with National Standard 1's requirements.

Northern Albacore Tuna

Amendment 7 also includes measures for management of north Atlantic albacore (or "northern albacore") tuna. Since 1998, ICCAT has adopted recommendations regarding the northern albacore tuna fishery. A multi-year management measure for northern albacore tuna was first adopted in 2003, setting the TAC at 34,500 mt. ICCAT's Standing Committee on Research and Statistics (SCRS) assessed the northern albacore tuna stock in 2009 and concluded that the stock continues to be overfished with overfishing occurring, recommending a level of catch of no more than 28,000 mt to meet ICCAT management objectives by 2020. In response, in 2009 ICCAT established a North Atlantic albacore tuna rebuilding program via Recommendation 09–05, setting a 28,000mt TAC and including several provisions to limit catches by individual ICCAT parties (for major and minor harvesters) and reduce the amount of unharvested quota that could be carried forward from one year to the next, from 50 percent to 25 percent of a party's initial catch quota. The 2009 recommendation expired in 2011.

In 2011, ICCAT Recommendation 11–04 again set a TAC of 28,000 mt for 2012 and for 2013 and contained specific recommendations regarding the North Atlantic albacore tuna rebuilding program, including an annual TAC for 2012 and 2013 allocated among the European Union, Chinese Taipei, the United States, and Venezuela. The U.S. quota for 2012 and 2013 is 527 mt. The recommendation limits Japanese northern albacore tuna catches to 4 percent in weight of its total Atlantic bigeye tuna longline catch, and limits the catches of other ICCAT parties to 200 mt. The recommendation also specifies that quota adjustments for a given year's underharvest or overharvest may be made for either 2 or 3 years from the subject year (*i.e.*, adjustments based on 2013 catches would be made in either 2015 or 2016). Pursuant to ATCA and the Magnuson-Stevens Act, in this final rule NMFS implements the ICCAT-recommended U.S. quota and establishes provisions to adjust the base quota for over or underharvests via annual quota specifications.

Implemented Measures

The rule finalizes most of the management measures that were contained in the proposed rule for Amendment 7 as they were proposed, with several exceptions. This section provides a summary of the final management measures being implemented by Amendment 7 and notes certain changes from the proposed rule to this final rule that may be of particular interest to the regulated community. These include changes to the basis for annual purse seine quota availability, changes to two Gear Restricted Areas (GRAs), changes to the range of years used in the performance metrics and BFT quota allocations formula, changes to VMS requirements, and changed to effective dates. Measures that are different from the proposed rule, or measures that were proposed but not implemented, are described in detail in the section titled, "Changes from the Proposed Rule."

1. Quota Reallocation

Codified Quota Reallocation

The Longline category's percentage of the baseline U.S. bluefin tuna quota remains at 8.1 percent, but each year the Longline category quota will be increased by a net amount of 62.5 mt based on deductions from the other quota categories, to more fully and predictably account for Longline category incidental bluefin catch, including both dead discards and landings. This measure does not modify the previously-codified category quota allocation percentages. Rather, NMFS will calculate the bluefin quota for each of the quota categories through the following process: First, 68 mt will be subtracted from the baseline annual U.S. BFT quota for reallocation to the Longline category quota. All quota categories will be reduced consistent with the allocation percentages codified at 50 CFR 635.27. Second, the remaining quota will be divided among the categories according to those allocation percentages. Third, the 68 mt derived in Step One from all categories, including the Longline category, will be added to the Longline category quota. The net

amount of quota increase for the Longline category will be 62.5 mt.

Thus, 32.0 mt will be deducted from the General category (*i.e.*, 47.1 percent of 68 mt), 2.7 mt from the Harpoon category (3.9 percent), 12.6 mt from the Purse Seine category (18.6 percent), 5.5 mt from the Longline category (8.1 percent), 13.4 mt from the Angling category (19.7 percent), and 1.7 mt from the Reserve category (2.5 percent). This equals 68 mt, which will be added to the Longline category, resulting in a net increase to the Longline category of 62.5 mt (68 mt minus the Longline category's contribution of 5.5 mt). If, for example, the baseline annual U.S. quota is 923.7 mt in a given year, then 403.0 mt would be allocated to the General category (*i.e.*, 47.1 percent of 855.7 mt), 33.4 mt to the Harpoon category (3.9 percent), 159.1 mt to the Purse Seine category (18.6 percent), 137.3 mt for the Longline category (8.1 percent plus the 62.5 mt), 168.6 mt for the Angling category (19.7 percent), and 21.4 mt for the Reserve category (2.5 percent)

This measure provides additional quota to the Longline category to facilitate the ability to account for both landings and dead discards within the Longline category quota, consistent with the historical separate dead discard allocation, yet limits the amount of reallocation to the Longline category if the total U.S. quota increases. For more information on the historical dead discard allocation and the associated rationale for the 68 mt augmentation of the Longline category, see the Codified Reallocation section (2.1.2) of the FEIS.

Annual Quota Reallocation

NMFS will annually adjust the Purse Seine quota, using a formula based on the weights of reported landings and estimated weights of dead discards (calculated from reported lengths) by purse seine fishery participants in the previous year. Twenty-five percent of each Purse Seine category participant's base quota will be available as a minimum to each Purse Seine fishery participant annually. Beyond that amount, quota will be available to such participants based on the fishery participant's catch in the previous year. Any quota not allocated to the Purse Seine category participants will be allocated to the Reserve category for possible redistribution consistent with specified regulatory criteria to other quota categories, and to support other objectives of the 2006 Consolidated HMS FMP. By moving portions of the unused Purse Seine quota to the Reserve category annually, this measure will give NMFS more flexibility in administering the quota system.

Based on public comment, this measure was modified from the proposed rule so that the annual formula for quota availability is based on the previous year's individual purse seine participant's catch, rather than based on the catch of the Purse Seine category as a whole. This modification ties quota allocation more closely to the individual participants catch and creates incentive for fishery participants to remain active in the fishery. Without this modification, individual allocations would be tied to the catch of the other vessels in the fishery, which could have unfair results if catch were to vary greatly among the vessels. For example, in a year where overall category catch were low, an individual purse seine participant could have a relatively low amount of quota available for use, even if that participant landed a substantial portion of its allocation during the previous year.

Annually, NMFS will make a determination regarding the quota available for each purse seine participant for the year, based on the bluefin catch by such participants in the previous year. Purse Seine participants will have available for use either 100 percent, 75 percent, 50 percent, or 25 percent of their base quota, according the following allocation criteria: If the individual catch is between 0 and 20 percent of the individual base quota in year one, the Purse Seine fishery participant will have available for use 25 percent of their base quota in year two, and 75 percent of their quota will be available to the Reserve Category for that year. If the individual catch is greater than 20 percent and up to 45 percent of their individual base quota in year one, the Purse Seine fishery participant will be allocated 50 percent of their quota in year two, and 50 percent of their quota will be available to the Reserve Category for that year. If the individual catch is greater than 45 percent and up to 70 percent of their base quota in year one, the Purse Seine fishery participant will have available for use 75 percent of their individual base quota in year two, and 25 percent of their quota will be available to the Reserve Category for that year. If the individual catch is greater than 70 percent of their base quota in year one, the Purse Seine fishery participant will have available for use 100 percent of their baseline quota in year two, and no quota will be available to the Reserve Category for that year. These thresholds (>20 percent, >45 percent, >70 percent) will apply following the same pattern in years beyond year two, with each year's quota reflecting the previous year's catch. In summary, if Purse Seine fishery participants catch a large portion of their individual allocated base quota in one year, they have available for use a large portion of their base quota in the next year. If a Purse Seine fishery participant's catch is low in one year, a larger portion of their Purse Seine base quota becomes available for other management purposes. The Purse Seine quota available would not be "locked-in" at a low level because the criteria are structured to enable increased utilization of available quota. For example, if the catch in year one is between 0 and 20 percent of their individual year one baseline Purse Seine quota, the Purse Seine fishery participant would have available for use 25 percent of their individual baseline quota in year two. If, in year two, the individual catch is greater than 20 percent of their individual baseline quota, but still within their individual annual allocation (*i.e.*, catch is between 20 percent and 25percent), the Purse Seine fishery participant would have available for use 50% of their individual baseline quota in year three. The Purse Seine participants catch levels and allocation levels have been staggered to allow for an increase in allocation in the following year, without causing the Purse Seine fishery participant to exceed the current year's allocation to do so.

This measure balances the need to provide the Purse Seine category participants a reasonable amount of fishing opportunity in a predictable manner, while making use of quota that may otherwise be unused. As described under "Modifications to the Reserve Category," quota that is available to the Reserve Category may be utilized in a variety of ways to meet multiple objectives. NMFS will annually calculate the Purse Seine catch for that year and publish a notice in the **Federal Register** regarding the amount of quota that would be allocated to the Purse Seine fishery participants, as well as the corresponding amount allocated to the Reserve category and any disposition of the quota from the Reserve category for the subsequent year made at that time. After the initial adjustment, NMFS may make additional modifications to the Purse Seine quota inseason in accordance with the criteria for inseason adjustments specified at § 635.27(a), or make subsequent use of quota from the Reserve category.

Modifications to the Reserve Category

This measure gives NMFS management flexibility by augmenting the amount of quota in the Reserve category under certain circumstances

and adds new criteria to the list of determination criteria NMFS considers in redistributing quota to or from the Reserve category, to be responsive to the current conditions in the fisheries and facilitate adaptation to future changes in the fisheries. The potential sources of quota for the Reserve category on top of its baseline allocation of 2.5 percent are: (1) Available underharvest of the U.S. quota that is allowed to be carried forward; and (2) unused Purse Seine quota, under the Annual Quota Reallocation measure described above. For example, under the Annual Quota Reallocation, NMFS will annually adjust the purse seine quota, using a formula based on the weights of reported landings and estimated weights of dead discards (calculated from reported lengths) by each Purse Seine fishery participants in the previous year. Any remaining amount of Purse Seine quota will then be reallocated to the Reserve category for that subsequent year. NMFS could utilize quota from the Reserve category inseason after considering defined criteria and objectives. NMFS adds five criteria to the existing nine criteria to consider when making inseason or annual quota adjustments. The five new criteria, added to § 635.27(a)(8)(1)–(9) are: (10) Optimize fishing opportunity; (11) account for dead discards; (12) facilitate quota accounting; (13) support other fishing monitoring programs through quota allocations and/or generation of revenue; and (14) support research through quota allocations andr generation of revenue.

These modifications to the Reserve category will increase management flexibility in administering the quota system in a way that takes into account fluctuations in the characteristics of the fishery.

2. Gear Restricted Areas

Modified Cape Hatteras Gear Restricted Area, With Conditional Access

This final rule establishes a GRA off Cape Hatteras, NC, and limits access to this area for vessels fishing with pelagic longline gear during the 5-month period from December through April. The shape of the GRA has been modified from the proposed rule to remove the southeastern corner of the defined geographic area. This change was to avoid unintended effects on fishing outside the closed area that would have occurred if the action were implemented as proposed because it did not account for the effect of the prevailing currents on how pelagic longline gear drifts in that area.

Under this management measure, NMFS annually will grant qualified vessels conditional access to this GRA to fish with pelagic longline gear. Access will be granted based on a formula consisting of the following metrics: Ratio of bluefin tuna interactions to designated species catch, compliance with the Pelagic Observer Program requirements, and compliance with HMS logbook reporting requirements. Vessels will not qualify to fish in the area with pelagic longline gear if they have not demonstrated their ability to avoid bluefin tuna and/or comply with reporting and monitoring (observer) requirements. Non-qualifying vessels will be allowed to use other gear types to fish for non-bluefin HMS species authorized for use by pelagic longline vessels, such as buoy gear, green-stick gear, or rod and reel, in the area during the months of the restriction (December through April), but they may not fish with pelagic longline gear in during those months. Although originally proposed in the Proposed Rule, the final rule does not allow non-qualifying vessels access to the GRA to fish under the General category regulations and target bluefin (discussed further in the Comments and Responses). The principal objective of conditional access to the GRA is to balance the objective of reducing dead discards with the objective of providing reasonable fishing opportunity. The second objective is to provide strong incentives to modify fishing behavior to avoid bluefin tuna and reduce dead discards, as well as improve compliance with the logbook reporting and observer requirements. This regulatory approach is based on the fact that, historically, relatively few vessels have consistently been responsible for the majority of the bluefin tuna dead discards within the Longline category. Conditioning access on compliance with reporting and monitoring requirements reflects the critical importance of fishery data to the successful management of the fisheries.

The initial evaluation of performance metrics will be based upon data from 2006 through 2012, and subsequent "performance scores" will be based upon the most recent complete three-consecutive-year period for which data are available. In a situation where an Atlantic Tunas Longline permit has been transferred from one vessel to another, or there has been an ownership change of a permitted vessel, the relevant vessel fishing history used for the calculation of the performance score regarding access to the Cape Hatteras GRA remains with the vessel. As further explained in the Response to Comments below (Comment 26), NMFS modified the relevant historical time period from the proposed rule (which was 2006–2011). Atlantic Tuna Longline permit holders will be notified annually of the status of their relevant vessel, and only aggregated information regarding the vessel status will be made public. Atlantic Tuna Longline permit holders will be able to appeal their relevant vessel performance scores to NMFS by submitting a written request to appeal, indicating the reason for the appeal and providing supporting documentation for the appeal (*e.g.*, copies of landings records and/or permit ownership, Pelagic Observer Program information, logbook data, etc.). NMFS will evaluate the appeal based upon the following criteria: (1) The accuracy of NMFS records regarding the relevant information; and (2) correct assignment of historical data to the vessel owner/permit holder. Such permit holders may also appeal on the basis of changes in vessel ownership or permit transfers. Appeals based on hardship factors will not be considered. See below for more information on appeals.

NMFS will have the authority to terminate access for all pelagic longline vessels or individual pelagic longline vessels to the GRA via inseason action to address issues including: (1) Failure to achieve or effectively balance the objective of reducing dead discards with the objective of providing fishing opportunity; (2) bycatch of bluefin tuna or other HMS species that may be inconsistent with the objectives or regulations or the 2006 Consolidated HMS FMP, or ICCAT recommendations; or (3) bycatch of marine mammals or protected species that is inconsistent with the Marine Mammal Protection Act (MMPA), Pelagic Longline Take Reduction Plan (PLTRP), or the 2004 Biological Opinion (BiOP).

The performance metric formula will enable qualified vessels to continue to fish in the Modified Cape Hatteras GRA, yet will substantially reduce bluefin tuna dead discards by precluding fishing in the GRA by those with a history of high bluefin tuna interaction in relation to other designated species catch. In order to characterize vessel performance in a manner that is fair, consistent, and feasible to administer, the performance metric formula is based on relatively simple, objective, and quantifiable information. For each of the three performance metrics, a vessel will be scored on a scale of 1 to 5, with 5 reflecting better performance. Vessels with a ratio of bluefin tuna interactions to designated species catch of 1 will not be allowed to fish in the Modified Cape Hatteras GRA using pelagic longline

gear. If a vessel's Pelagic Observer Program Compliance score is 2 or less, that vessel will not be allowed to access the area and fish with pelagic longline gear, unless the vessel's logbook compliance score is 4 or 5.

The performance metric formula will reflect bluefin tuna interactions as measured by the ratio of the number of bluefin tuna interactions (landings, dead discards, and live discards, in number of fish) to the weight of designated species landings (in pounds). These designated species will consist of the more common marketable catch harvested by pelagic longline vessels: Swordfish; yellowfin, bigeye, albacore, and skipjack tunas; dolphin; wahoo; and porbeagle, shortfin mako, and thresher sharks. The use of a ratio incorporating both designated species landings and bluefin tuna interactions provides a metric that is intended to eliminate bias resulting from the differences among vessels in size or fishing effort.

The Pelagic Observer Program metric reflects compliance with requirements regarding communications, and other aspects of observer deployment. The scoring system is designed to be neutral with respect to valid reasons that a vessel was selected by the observer program but did not take an observer, and designed to weigh trips that were not observed due to noncompliance with the communication requirements more heavily than those that were not observed due to noncompliance with the safety and accommodation requirements. The logbook reporting metric reflects compliance with the requirement that the vessel owner/operator must submit the logbook forms postmarked within 7 days of offloading the catch, and, if no fishing occurred during a month, must submit a no-fishing form postmarked no later than 7 days after the end of that month.

Spring Gulf of Mexico Pelagic Longline Gear Restricted Areas

This final rule establishes two GRAs in the Gulf of Mexico and limits access to these areas for vessels fishing with pelagic longline gear during the 2-month period from April through May to reduce dead discards and protect bluefin tuna on their spawning grounds, while maintaining fishing opportunities for pelagic longline vessels as appropriate. As described in the Response to Comments below (Comments 52 and 53), the size and location of the geographic area of the GRA has been modified from the proposed rule to take into account the best available information about the location of bluefin interactions (eastward trend), the high variability of bluefin tuna distribution, the economic importance of the fishery, and other factors.

Other gear types authorized for use by pelagic longline vessels such as buoy gear, green-stick gear, or rod and reel are allowed in these areas, provided the vessel abides by any rules/regulations that apply to those gear types

Transiting Closed Areas

This final rule allows vessels with an Atlantic Tunas Longline permit, Swordfish Incidental or Directed Limited Access permit, or a Shark Limited Access permit fishing with bottom or pelagic longline gear to transit areas that are closed or restricted to such gear, if they remove and stow the gangions, hooks, and buoys from the mainline and drum. No baited hooks are allowed. The specific closed and restricted areas to which this transiting provision applies include those established by this rule (Spring Gulf of Mexico GRAs and Modified Cape Hatteras GRA), as well as the following pelagic longline closed areas in effect: Northeastern U.S. Closure, Northeast Distant Restricted Fishing Area, Charleston Bump, East Florida Coast Closed Area, and DeSoto Canyon Closed Area. This measure will allow vessels to transit the following bottom longline closed areas in effect: Mid-Atlantic Shark, Snowy Grouper Wreck, Northern South Carolina, Edisto, Charleston Deep Artificial Reef, Georgia, North Florida, St Lucie Hump, East Hump, Madison-Swanson, Steamboat Lumps, and Edges 40 Fathom Contour.

This regulatory provision reduces travel costs by allowing more direct routes of travel, and addresses the safety-at-sea concern associated with the requirement to steam around restricted areas.

3. Quota Controls

NMFS Closure of the Pelagic Longline Fishery

Under measures adopted in the final rule, the pelagic longline fishery will close (*i.e.*, use of pelagic longline gear is prohibited) when the total Longline category quota is reached, projected to be reached or exceeded, or when there is high uncertainty regarding the estimated or documented levels of bluefin tuna catch. These closures will help prevent overharvest of the Longline category quota and prevent further discards of bluefin tuna. When NMFS projects that the quota will be reached, it will file a closure action with the Office of the Federal Register for publication. Vessels will be required to offload all bluefin tuna prior to the closure date/time. Criteria NMFS will consider include those listed under § 635.27(a)(8) as well as: Total estimated bluefin tuna catch (landings and dead discards) in relation to the quota; estimated amount by which the bluefin tuna quota might be exceeded; usefulness of data relevant to monitoring the quota; uncertainty in the documented or estimated dead discards or landings of bluefin tuna; amount of bluefin tuna landings or dead discards within a short time; effects of continued fishing on bluefin tuna rebuilding and overfishing; provision of reasonable opportunity for pelagic longline vessels to pursue the target species; variations in seasonal distribution, abundance or migration patterns of bluefin tuna; and other relevant factors. NMFS will use the best available data to calculate the most recent, complete, and available estimate of dead discards on a fishery-wide basis consistent with current regulations. Best available data may include, among other things, vessel-based reports, electronic monitoring data, and observer data, as appropriate.

Individual Bluefin Quotas (IBQs)

This final rule implements an IBQ management system, which is summarized and then described in further detail below.

Summary of the IBQ Program

NMFS is implementing an IBQ Program pursuant to section 303A of the MSA, which authorizes development of limited access privilege programs (LAPP). A LAPP creates permits, which are issued for a period of not more than 10 years, to harvest a quantity of fish expressed by a unit(s) representing a portion of the total allowable catch that may be received or held for exclusive use by a person. Section 303A(c), 16 U.S.C. 1853a, identifies the requirements for such a program (note that the referendum requirements of section 303A(c)(6)(D) are inapplicable to this program for the Atlantic HMS fisheries). This final rule implements IBQs for vessels permitted in the Atlantic Tunas Longline category (provided they also hold necessary limited access swordfish and shark permits). Specifically, the IBQ Program requires vessels fishing with pelagic longline gear to account for bluefin tuna landings and dead discards using IBQ allocation (obtained through shares or leases of allocation), and prohibits the use of pelagic longline gear when the vessel's IBQ allocation has been caught. An IBQ share is a percentage of the total available Longline quota. Thus, if the total available Longline quota is modified as a result of an ICCAT

recommendation and the Longline quota is changed as a result, the share (specific percentage) associated with an eligible permit would not change, but would result in a modified amount of IBQ allocation (mt or equivalent pounds).

The Northeast Distant Area (NED) is a distinctly managed geographic area due to the specification of a separate ICCAT quota relative to the rest of the pelagic longline fishery and is not managed under the full IBQ Program restrictions. However, there are provisions of the IBQ Program that will apply to vessels fishing with pelagic longline gear in the NED. For example, vessels will be required to have the minimum IBQ allocation to operate in the NED starting in 2016 and when NED bluefin quota has been exhausted, permitted vessels must abide by all the requirements of the IBQ Program.

The IBQ Program is a suite of management measures intended to work together. An IBQ share is the percentage of the Longline category quota that is associated with an eligible vessel, based upon the IBQ share formula and the relevant vessel history, and an IBQ allocation is the amount (mt) of bluefin tuna quota that is distributed to a permitted vessel, based upon the relevant IBQ share, and the annual Longline category quota. Eligible pelagic longline vessels will receive one of three IBQ share percentages (1.2%, 0.6%, or 0.37%), which must be used by individual vessels to account for all their bluefin tuna landings and dead discards. Shares and allocations are designated as either Gulf of Mexico (GOM) or Atlantic (ATL). Vessels are prohibited from using Atlantic allocation to account for bluefin tuna catch in the Gulf of Mexico, thereby limiting potential shifts in effort. Specifically, a vessel with bluefin catch in the Gulf of Mexico may not use Atlantic allocation to account for such catch. However, vessels may use Gulf of Mexico allocation to account for bluefin catch in both the Gulf of Mexico and Atlantic. Allocations may be leased annually by Atlantic Tunas Longline category permit holders or Purse Seine category participants, and a minimum amount of allocation is required for a pelagic longline vessel to depart on a trip in the Atlantic (0.125 mt) using pelagic longline gear. A higher minimum amount of quota (allocation) is required for a pelagic longline vessel to depart on a fishing trip in the Gulf of Mexico (0.25 mt). A pelagic longline vessel may not use Atlantic allocation to satisfy the minimum share requirement for a fishing trip in the Gulf of Mexico. If a vessel retains legal sized bluefin tuna in excess of its allocation ("quota debt"), it may land the fish, but must lease additional IBQ allocation from another vessel to account for the excess catch, and is not allowed to fish with pelagic longline gear until the quota debt is balanced in the system (is accounted for) and the minimum allocation required for a vessel to depart on a trip is acquired. A vessel's IBQ allocation cannot carry-over from one year to the next, but if a vessel is unable to satisfy its quota 'debt' in a particular fishing year, quota will be deducted from the vessel's allocation during the subsequent year.

Although temporary leasing of IBQ allocation can occur, no permanent sale of IBQ shares is allowed at this time, to reduce risks for permit holders during the initial stages of the IBQ Program, when the market for bluefin tuna quota shares is new and uncertain. Measures to allow permanent sale of bluefin tuna quota shares may be implemented in the future through separate proposed and final rulemaking. This will allow time for IBQ fishermen to familiarize themselves with the IBQ Program and market for bluefin tuna shares.

As described in more detail below, NMFS is implementing an internet-based system to track bluefin tuna catch (pelagic longline and purse seine), and the use and leases of IBQ allocation. VMS must be used by vessel operators to report bluefin tuna catches to increase the timeliness of dead discard data; and electronic monitoring (cameras and associated equipment) are required on pelagic longline vessels as one element of the monitoring program.

The IBQ Program will be evaluated after 3 years, and NMFS will implement a cost recovery program through separate rulemaking.

What vessels are eligible to receive initial bluefin tuna quota shares?

Vessels must meet two requirements to be eligible to receive IBQ shares: (1) Vessels must have a valid Atlantic Tunas Longline category permit; and (2) vessel must be deemed to be "active". Vessels that made at least one set using pelagic longline gear between 2006 and 2012 (based on pelagic longline logbook data) are defined as "active" This date range includes 2012, and therefore is one year longer than that proposed to ensure that recent participants in the fishery are defined as "active." For the purpose of IBQ share eligibility, a "valid Atlantic Tunas Longline category permit" is one held as of the date the proposed rule was published, which was August 21, 2013.

Vessels with valid Atlantic Tunas Longline permits that do not meet the initial eligibility criteria may lease bluefin tuna IBQ allocation from IBQ allocation holders. Permits that are not associated with a vessel, such as a permit characterized as "No Vessel ID," are not eligible for an initial IBQ share but would be eligible to receive IBQ allocation (through a lease) if and when the permit is reassociated with a vessel. Such a vessel would be required to lease IBQ allocation before fishing with pelagic longline gear. New entrants to the fishery must either obtain an Atlantic Tunas Longline permit with associated quota share, or if the valid permit did not have quota share, obtain bluefin tuna quota through lease/sale to fish.

How much bluefin tuna quota does each eligible vessel get?

A vessel's IBQ share of the Longline quota is based upon two elements: The amount of bluefin tuna caught between 2006 and 2012, and the amount of designated species landings (*i.e.*, swordfish; yellowfin, bigeye, albacore, and skipjack tunas; dolphin; wahoo; and porbeagle, shortfin mako, and thresher sharks). As discussed below in the "Response to Comments" (Comment 76), this date range includes 2012, and therefore is one year longer than that proposed to consider the most recent fishing activity of vessels, and to be inclusive regarding the important elements. More specifically, the two factors that are the basis of the allocation formula are: (1) Historical bluefin tuna catch (from vessel logbook data) expressed as ratio of the number of bluefin tuna interactions to 'designated species' landings; and (2) 'designated species' landings (from the NMFS dealer data (weigh-out slips) and logbook information). The use of these two factors in the quota share allocation formula is intended to acknowledge past bluefin tuna avoidance, ensure a fair initial allocation, and consider the diversity in vessel fishing patterns and harvest characteristics. Past fishing that resulted in fewer bluefin tuna interactions will result in larger IBQ shares of bluefin tuna. Landings of designated species are an indicator of both the level of fishing effort and activity as well as vessel success at targeting those species and minimizing bluefin bycatch interactions. This method incorporates the rate of historical bluefin tuna interactions but also includes the amount of designated species landings, recognizing that greater levels of fishing activity are likely to be correlated with a greater number of bluefin tuna interactions.

The specific IBQ allocation formula is as follows: Because the bluefin tuna interactions to designated species

landings ratio is very small, designated species landings were multiplied by 10,000 in order to derive a ratio that is more practical (*i.e.*, 0.95 instead of 0.000095). In order to combine the two metrics, scores were assigned to each metric (the bluefin tuna catch to designated species landings ratio and historical designated species landings) as described below. Active vessels were sorted into three categories, using total designated species landings from 2006 through 2011, based on percentiles of landings from lowest to highest (low, medium, and high, 0 to <33 percent; 33 to <66 percent and 66 to 100 percent, respectively). Similarly, the active vessels were sorted according to the ratio of bluefin interactions to HMS landings, from lowest to highest. For example, a vessel with a 2006–2011 weight of designated species landings of greater than or equal to 367,609 lb (the 66 to 100th percentile of landings) would be placed in the "High" category and assigned a score of 3 (the highest score). In contrast, a vessel with a total designated species landing of only 95,000 pounds for 2006 through 2011 would receive a designated species landings score of 1. A vessel with a bluefin to designated species landings ratio of less than 0.2884 (66 to 100th percentile of bluefin to designated species landings ratios), would place in the top category and receive a bluefin to designated species landings ratio score of 3. A low ratio indicates relatively few bluefin interactions and therefore receives a high score.

Finally, the two scores were combined to form the basis of the allocation. For each vessel, the score for designated species landings was added to the score for bluefin to designated species ratio. For example, if a vessel scored in the "High" category for both designated species landings and bluefin to designated species landings its combined score would be 6 (3 + 3). If a vessel scored High for bluefin ratio, but Low for designated landings, it would be scored a 4 (1 + 3) and it would be placed in the Medium rating score category. Vessels assigned to a particular category will be allocated the same percentage share.

Vessels are allocated shares of 1.2%, 0.6%, or 0.37% of the Longline category quota. For 2015 (unless the U.S. quota is modified by ICCAT in 2014), based on a revised baseline Longline category bluefin tuna quota of 137 mt (baseline plus 62.5 mt), vessels will be allocated 1.64 mt, 0.82 mt, or 0.51 mt of bluefin tuna, respectively. These specific allocations are larger than those proposed because the actual number of eligible vessels was less than the number of eligible vessels analyzed at the proposed rule stage. The number of eligible vessels determined by the proposed rule was higher because the proposed rule analysis included permits that were not associated with vessels at the time of the publication of the proposed rule (August 21, 2013), and did not reflect both eligibility criteria. Allocation among fewer eligible vessels increases the allocation amount per vessel. The rationale for this measure is to implement criteria that reflect participation in the fishery. By allocating only to "active" vessels, the measure will facilitate continued participation in the fishery by vessels that have made past investments in the fishery. Permitted vessels that do not meet the initial eligibility criteria necessary to receive bluefin quota share allocation will still be eligible to obtain quota through a lease of IBQ allocation. The criteria did not include 2013 or 2014 because the DEIS and FEIS, respectively, were being written, during those years, and there were limitations on the availability of finalized data. Availability of finalized logbook and dealer data during 2013 and 2014 was limited to 2011 and 2012 data, respectively.

As described below, under "Appeal of Initial IBQ Shares," when NMFS determines that all requests for appeal have been resolved, NMFS may adjust all IBQ shares as necessary to accommodate permitted holders that have been deemed eligible or provided an increased IBQ share through the appeals process.

All bluefin tuna quota allocated to Atlantic Tunas Purse Seine participants is also designated as "Atlantic," subject to the restriction that it may only be used in the Atlantic (by either a Purse Seine vessel or via a lease to a pelagic longline vessel).

If a vessel has fishing history in both the Gulf of Mexico and Atlantic, it may receive quota shares of both the Gulf of Mexico and Atlantic, depending upon the amount of quota share and the proportion of fishing history in the two areas. A relatively small percentage of sets in one area will not be reflected in the quota share. If a vessel would be allocated less than a minimum share amount for a particular area (*i.e.*, less than 0.125 mt for the Atlantic or less than 0.25 mt for the Gulf of Mexico), then no allocation will be designated for that area and all of the permit holder's share would be designated to the other area (Atlantic or Gulf of Mexico). For example, if a vessel is eligible for an allocation of 0.51 mt, and historically landed 10 percent of their catch in the Gulf of Mexico, the vessel would receive an allocation of 100 percent "Atlantic" quota (and none designated as "Gulf of Mexico") because 10 percent of 0.51 mt (.005 mt) is less than the minimum share required to fish in the Gulf of Mexico (0.25 mt). Owners of vessels with a valid Atlantic Tunas Longline category permit will be sent certified letters informing them of their IBQ share and resultant allocation. In determining initial quota share eligibility and calculating the initial quota share NMFS used data associated with a vessel's history. In the future, the IBQ share will be associated with the permit, not the vessel. For example, if a permitted vessel has IBQ shares, and the owner of the permitted vessel decides to sell the permit but keep the vessel, the seller of the permit (the vessel owner) would no longer have any quota share or privileges with respect to the IBQ Program because IBQ shares would be associated with the permit that was sold. In contrast, the buyer of the permit would receive IBQ shares and allocation associated with that permit once the permit is associated with a vessel.

Appeals of Initial IBQ Shares and GRA Access Determinations

This final rule implements a two-step appeals process for review of the Secretary's decisions regarding initial assignment of IBQ shares. This rule also adds an opportunity for HMS Management Division to initially review a request for a quota share adjustment or access to the Cape Hatteras GRA, in order to facilitate possible expedited resolution of such requests without a requestor needing to go through a full National Appeals Office process. Specifically, the final rule describes an initial review step by the HMS Management Division through which the appellant must first submit a written request to appeal their initial IBQ share or access the Cape Hatteras GRA prior to submitting any appeals to the National Appeals Office. It also adds administrative details about the process (*i.e.*, on acceptable supporting documentation, and the specific timing of the steps). This modification was made in response to public comment requesting clarification of the process. Although this final rule adds administrative details regarding the appeals process, the range of criteria that permit holders may base an appeal on did not change from the proposed to the final rule. Additional discussion of these changes is in the section of this preamble called "Changes to the Proposed Rule."

Upon publication of this final rule, NMFS will notify all permit holders by certified letter of their initial IBQ share

and resultant allocation and whether they have granted access to the Cape Hatteras GRA. If permit holders wish to appeal their IBQ share determination or GRA access determination, they must first submit a written request for adjustment of their initial IBQ share or GRA access determination to the HMS Management Division, indicating the reason for the requested change and providing supporting documentation as detailed below. All requests for adjustment to initial IBQ shares or GRA access determination must be submitted to the HMS Management Division within 90 days of publication of the final rule. HMS Management Division staff will evaluate all such requests and supporting documentation, then notify the appellant by letter signed by the HMS Management Division Chief of NMFS' decision to approve or deny the request. If the request is approved, then NMFS will appropriately adjust the appellant's initial IBQ share and resultant allocation and/or grant access to the Cape Hatteras GRA. If denied, the permit holder may appeal the decision to the NMFS National Appeals Office within 90 days of receipt of the notice of denial by submitting a written petition of appeal. Appeals will be governed by the regulations and policy of the National Appeals Office at 15 CFR part 906. National Appeals Office regulations detail the procedure for appealing the quota share decision (See § 906.3).

The decisions subject to a request for appeal are: (1) Initial eligibility for IBQ shares based on ownership of an active vessel (as defined by this rule under § 635.15) with a valid Atlantic Tunas Longline category permit combined with the shark and swordfish limited access permits required under the current permit regulations; (2) the accuracy of NMFS records regarding a vessel's amount of designated species landings and/or bluefin interactions; and (3) correct assignment of target species landings and bluefin interactions to the vessel owner/permit holder. As discussed under the IBQ measures above, the IBQ share formula is based upon historical data associated with a permitted vessel. Because vessels may have changed ownership, or permits may have been transferred during 2006 through 2012, the current owner of a permitted vessel may also appeal on the basis of historical changes in vessel ownership or permit transfers, if current owner believes that the data used in the analysis were not accurate because of such changes. NMFS will consider only written requests for appeals. When permit holders are informed of their initial IBQ shares and resultant allocations and/or access determination, they will be provided instructions regarding the process to appeal that decision. Landings eligibility criteria require evidence of documented legal landings during the timeframe from January 1, 2006, through December 31, 2012. Public comment on the DEIS and proposed rule reflected a need to clarify aspects of the appeals process. Thus, NMFS is clarifying in this final rule that, regarding what will be considered "documented legal landings," NMFS will consider official NMFS logbook records or weighout slips for landings between January 1, 2006, through December 31, 2012, that were submitted to NMFS prior to March 2, 2013 (60 days after the cutoff date for eligible landings), and verifiable sales slips, receipts from registered dealers, state landings records, and permit records as accompanying documentation of an appeal. Landings data are required to be submitted within 7 days of landing under the applicable regulations. Recognizing that somewhat-late reporting could have occurred for a variety of reasons, however, NMFS is clarifying that it will consider "documented" landings for appeals purposes to be those reported within 60 days. NMFS will count only those designated species landings that were landed legally when the vessel owner had a valid permit. Appeals regarding bluefin interactions may be based on HMS logbook records as described, observer data, or other NMFS data. No other proof of catch history will be considered. NMFS permit records will be the sole basis for determining permit transfers . Photocopies of the written documents are acceptable in the original application or appeal; NMFS may request the originals at a later date. NMFS may refer any submitted materials that are of questionable authenticity to the NMFS Office of Enforcement for investigation. Appeals based on hardship factors will not be considered. Consistent with most limited effort and catch share programs, hardship is not a valid basis for appeal due to the multitude of potential definitions of hardship and the difficulty and complexity of administering such criteria in a fair manner.

When NMFS determines that all requests for IBQ share appeals have been resolved, NMFS may adjust all IBQ share percentages as appropriate to accommodate permitted holders that are deemed eligible or that are provided an increased IBQ share through the appeals process.

Mandatory Retention of Legal-Sized Bluefin Tuna

Pelagic longline vessels must retain all legal-sized commercial bluefin tuna that are dead at haul-back. Because these fish must be retained, regulatory discards and the waste of fish will be decreased, and it will be more likely that such fish are accurately accounted for and have a positive use (*e.g.*, marketed, used for scientific information, etc.). Bluefin tuna, of all size classes, that are live at haul-back should be carefully removed from the hooks and returned to the ocean to ensure survivability. Legal-sized commercial bluefin tuna that are alive at haul-back may be retained; however they will be accounted for under the IBQ allocation.

Fishing Under the IBQ Program

This section provides a brief example of how some of the Amendment 7 requirements applicable to a vessel fishing with pelagic longline gear will work together. Additional details regarding the VMS and electronic monitoring programs are provided below in sections of this preamble titled "VMS": and "Electronic Monitoring."

As discussed in the proposed rule, IBQ allocation leases would be executed by the eligible vessel owners, or their representatives, through the internet and a NMFS database. Owner-performed leases will provide the quickest execution of leases because any eligibility criteria will be verified automatically based on information loaded into that system, and will not involve the submission or review of a paper application, or any lag time associated with NMFS staff being directly involved in the lease approval process. The online IBQ System used to track and lease bluefin IBQ shares and resultant allocations will be operated out of NMFS's Southeast Regional Office (SERO). The administrative functions associated with this IBQ System (*e.g.*, registration and account setup, landing and dead discard tracking, and leases of allocation) are designed to be accomplished online; therefore, a participant must have an IBQ System account to participate. NMFS will provide instructions to IBQ participants about the required software, how to use the IBQ System to lease IBQ allocation and track IBQ use and balances, how to perform the necessary accounting actions that support administration of the program, and how to obtain assistance with using the system. An eligible permit holder must create an IBQ System account online, and log into the password protected IBQ

System to execute an IBQ allocation lease, to check the amount of IBQ in their account, or perform other functions, according to instructions provided by NMFS. Similarly, a dealer purchasing bluefin tuna caught from a vessel fishing with pelagic longline or Purse Seine gear must have an online dealer account, computer access, and internet access.

Before they may depart to fish with pelagic longline gear vessels must have the required minimum IBQ allocation and must have balanced any outstanding quota debt from previous trips, and comply with the VMS and electronic monitoring requirements. Vessels are required to haul gear and handle catch in accordance with the electronic monitoring program requirements (described below under electronic monitoring requirements), retain any legal sized dead bluefin, and report bluefin catch and information on sets through their VMS during the trip (described below under VMS Requirements). If a vessel retains legal-sized bluefin tuna in excess of its IBQ allocation, it may land and sell the fish, but the permit holder must acquire additional IBQ allocation to account for the excess catch, and is not allowed to fish with, or have onboard, pelagic longline gear until the quota debt has been resolved.

At the end of the trip, the permitted dealer purchasing the landings must enter all bluefin landing information from the trip. The vessel owner or operator, or their designee, must coordinate with the dealer to enter their dead discards, into the IBQ System. The landing transaction completed by the dealer must include the name and permit number of the vessel that landed the bluefin and any other information regarding the landings, as instructed by NMFS (such as the shareholder's account number, vessel account number, individual tag number, weights for landed bluefin tuna, and the number of dead discarded bluefin tuna by appropriate length bin). The permit holder, or designee, must validate the landings information and enter the dead discard information (such as numbers of fish by approximate size) before the transaction is processed. If, by the end of the fishing year a permit holder does not have adequate allocation (obtained either through leasing under paragraph (c)), or additional allocation under paragraph (f) to settle their vessel's quota debt, the vessel's allocation will be reduced in the amount equal to the quota debt, in the subsequent year, or years, until the quota debt is fully accounted for. A vessel may not fish if there is outstanding annual quota debt from a previous year. For those permit holders who own or operate multiple vessels with allocation, if, at the end of the year, one or more of the vessels has an outstanding quota debt, yet the other vessels still have allocation, the IBQ system will apply any remaining unused allocation associated with the other vessels to account for the quota debt of the other. This system functionality has been added since the proposed rule because unused allocation does not carry over from one year to the next, but quota debt does. This addition will ease the regulatory burden of resolving quota debt, and reduces the possibility that a permit holder of multiple vessels may inadvertently fail to manually resolve an existing quota debt with allocation associated with one of their other vessels at the end of the year and otherwise miss the opportunity to resolve the debt.

For example, if a permit holder owns two vessels, Vessel A and Vessel B and both have IBQ allocations but at the end of the year Vessel A has a quota debt of .20 mt, and Vessel B has remaining unused IBQ allocation of .10 mt, the IBQ System would automatically transfer .10 mt of Vessel B IBQ allocation to Vessel A to count toward resolving Vessel A's quota debt. Vessel A would still have a quota debt of .10 mt and, when annual IBQ allocation occurs at the start of the subsequent year, Vessel A's annual IBQ allocation would be reduced by .10 mt to account for the previous year's quota debt.

This final rule clarifies the relationship of accrued quota debt and Atlantic Tunas Longline category permit under the IBQ Program. If an Atlantic Tunas Longline category permit holder participated in the IBQ Program and has a quota debt that remains unresolved at the time of such permit's sale or transfer, then that quota debt remains associated with the permit. This is consistent with the IBQ share remaining linked to the eligible permit itself and further refines how IBQ shares, resultant allocation, and quota debt will be managed to ensure accountability under the IBQ Program, even if permits are sold or transferred.

To ensure that all IBQ Program activity can be accounted for on an annual basis, the IBQ System will prohibit any and all online transactions, such as catch transactions and IBQ allocation leases, between December 31 at 6 p.m. and January 1 at 2 p.m. (Eastern Time). IBQ System functions will resume after January 1 at 2 p.m. the following year. No IBQ System transactions will be allowed or available during this 20 hour time period to provide NMFS time to reconcile IBQ accounts, adjust IBQ allocation for the upcoming year, etc. If a vessel with the required minimal IBQ allocation departs on a trip prior to the end of a calendar year and returns to port after the start of the following year, any bluefin landings or dead discards will be counted against the new year's allocation.

In this final rule, NMFS will maintain the authority to ensure that the bluefin catch by pelagic longline vessels does not exceed the Longline quota. NMFS may, under certain circumstances, such as high uncertainty regarding the VMS reported dead discards, utilize the current methodology for generating and using estimates of pelagic longline dead discards. Prior to this final rule NMFS has used previous years' estimate as proxy for anticipated dead discards, and subtracted that estimate of dead discards "off the top" of the entire Longline quota. Although not anticipated, NMFS will maintain this ability until both methodologies can be compared in parallel to verify accuracy.

The Northeast Distant Area (NED) and the IBQ Program

Under current ICCAT recommendations, the NED is a distinctly managed geographic area managed under a separate quota. Because the NED is managed as a distinct area with a relatively small quota, and managing the NED under the IBQ system would add additional complexity to the IBQ system, the quota associated with the NED (25 mt) is not managed under the full IBQ Program restrictions. However, there are provisions of the IBQ Program that will apply to vessels fishing with pelagic longline gear in the NED. For example, vessels will be required to have the minimum IBQ allocation to operate in the NED starting in 2016 and when NED bluefin quota has been exhausted, permitted vessels must abide by all the requirements of the IBQ Program. Electronic monitoring systems, installed by June 1, 2015, will be required in order for vessels to fish with pelagic longline gear including in the NED, and data from the electronic monitoring system may be used to ensure that targeting fishing is not occurring. NMFS reminds the regulated community that the international separate allocation is only for bycatch in the NED and of the domestic prohibitions against targeting bluefin tuna using pelagic longline gear. NMFS will re-visit this issue if necessary if subsequent years' data indicate that additional controls are needed.

Quota Leasing

This measure allows Longline and Purse Seine category vessels to lease allocation to or from other vessels in these categories (provided they have active accounts in the IBQ system), so that allocations will become better aligned with catch (*i.e.*, vessels that catch bluefin tuna may be able to obtain quota from those that do not interact with bluefin tuna, or that have not used their full allocation of bluefin tuna). Allocation may be leased annually by Atlantic Tunas Longline category permit holders from other Atlantic Tunas Longline category permit holders or from Purse Seine category participants, regardless of whether they are eligible for their own quota share. Leasing of IBQ allocations is allowed among all Longline category vessels with valid limited access permits, regardless of whether they are eligible for their own quota share. If a vessel catches bluefin tuna using allocation that it has leased from another vessel, the fishing history associated with the catch of bluefin tuna will be associated with the vessel that catches the bluefin tuna (the lessee, not the lessor vessel). In other words, the lessee (vessel catching the fish) gets the 'credit' for the landings and dead discards, and not the lessor (the vessel that leased the allocation to the catching vessel). The future catch of bluefin tuna will not affect the quota shares, but will affect the calculation of the performance metric of each vessel. Sub-leasing of quota is allowed (*i.e.*, IBQ leased from vessel A to vessel B, then re-leased by vessel B to vessel C). For a particular calendar year, an individual lease transaction will be valid from the time of the lease until December 31.

The initial limit on the amount of allocation an individual Longline or Purse Seine category participant may lease annually will be the combined Longline and Purse Seine category allocations. This will provide flexibility for vessels to purchase quota in a manner that can accommodate various levels of unintended catch of bluefin tuna, and enable the development of an unrestricted quota market.

Annual Individual Bluefin Quota Allocation

Annual allocation of bluefin quota to eligible vessels with IBQ shares will occur January 1, based on the criteria described above ("What Vessels Are Eligible to Receive Initial Bluefin Tuna Quota Shares?" and "How Much Bluefin Tuna Quota Does Each Eligible Vessel Get?"). For vessels that are not eligible as of December 31 because they have begun—but not completed—the process of permit renewal or permit transfer, IBQ allocations will be made when the eligible permit holder completes the permit transaction(s). Subsequent to the annual allocation of quota, additional IBQ may be allocated to the vessels with bluefin quota share as a result of a U.S. baseline quota increase or transfer of quota from the Reserve category to the Longline category, pursuant to criteria for quota adjustments. Subsequent to the annual allocation of quota, quota may be deducted from vessels as a result of a decrease in the U.S. baseline quota, or to account for a quota debt (bluefin catch by a vessel that must be accounted for under the IBQ system, for which the vessel has insufficient quota).

With respect to the relationship between the Atlantic Tunas Longline permit and the IBQ share, upon implementation of Amendment 7, the IBQ share is associated with the Atlantic Tunas Longline permit, and is not severable. If, in the future, NMFS allows permanent sale of quota shares, NMFS would also consider whether or not the share is severable from the Atlantic Tunas Longline permit. Under this final rule, any quota debt associated with an Atlantic Tunas Longline permit will be associated with (and accompany) the permit upon sale/transfer of the permit. Quota debts will be also be associated with Atlantic Tunas Purse Seine category participants.

Elimination of Target Catch Requirement

This final rule eliminates the current target catch requirements for pelagic longline vessels (including those fishing in the NED), which restricts the number of incidentally caught bluefin tuna a pelagic longline vessel may retain in relation to the amount of target species retained and sold. In the context of the IBQ system being implemented by Amendment 7, the current target catch requirement is no longer be necessary.

Formal IBQ Program Evaluation

NMFS will formally evaluate the success and performance of the IBQ Program in achieving its objectives, after three years of operation and provide the HMS Advisory Panel with a publicly-available written document with its findings. The review will describe and analyze the changes that have taken place in the fishery since implementation of the IBQ Program. NMFS will utilize its standardized economic performance indicators, developed by its Office of Science and Technology, as part of its review. For example, the standardized economic performance indicators include catch (landings and dead discards), effort, revenues, and allocation leases and accumulation. Other indicators include the number of and distribution of bluefin tuna interactions. The review may also include analysis of data collection, monitoring, and reporting; enforcement; quota performance; quota distribution among permit holders; quota share and resultant allocation transferability; other elements of the IBQ Program; or aspects of the 2006 Consolidated HMS FMP relevant to the IBQ Program such as gear restricted areas or purse seine measures.

Cost Recovery

Section 303A(e) of the Magnuson-Stevens Act (16 U.S.C. 1853a(e)) requires that, in establishing a LAPP, a Council shall develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the LAPP; and provide for a program of fees paid by LAPP holders that will cover the costs of management, data collection and analysis, and enforcement activities. Such fees may not exceed 3 percent of the ex-vessel value of fish harvested under the LAPP. While section 303A(e) requires development of cost recovery in establishing a LAPP, NMFS plans to implement cost recovery after the IBQ Program evaluation (after 3 years). This step-wise approach is consistent with the purpose of section 303A(e) and appropriate given the nature of the LAPP being proposed. The purpose of section 303A(e) is to collect fees to cover management, data collection and analysis, and enforcement activities. However, the cost of administering a cost recovery program may be high relative to the amount of money recovered, because some active vessels have very high fishing activity whereas others have relatively low activity. NMFS also notes that the underlying objective of the IBQ is to reduce incidental catch of bluefin tuna, which will impact the amount and ex-vessel value of fish harvested. Immediate implementation of a cost recovery program, without obtaining further information about the operation of the fishery with IBQs, would be very difficult and would increase costs and uncertainty for fishing vessels during a time period when the fishery would be bearing other new costs and sources of uncertainty. For the above reasons, NMFS is not implementing cost recovery until after it conducts the program evaluation. After the IBQ Program is evaluated after 3 years,

NMFS will implement a cost recovery program through separate rulemaking.

4. Reporting Measures

Vessel Monitoring System (VMS) Requirements

This final rule implements VMS reporting requirements for vessels fishing with pelagic longline gear and issued an Atlantic Tunas Longline category permit. It also requires vessels fishing with purse seine gear and issued an Atlantic Tunas Purse Seine category permit to install VMS and report through VMS to support the inseason monitoring of the pelagic longline and purse seine fisheries, as proposed. Additional detail is provided in this final rule to explain application of the requirements to the Purse Seine category, in response to public comment asking for clarification and because of the need for additional administrative detail.

Purse Seine Vessels

Vessels with an Atlantic Tunas Purse Seine category permit must have an approved Enhanced Mobile Transmitting Unit (E–MTU) VMS unit installed by a qualified marine electrician to fish for Atlantic tunas with purse seine gear. Vessels must follow the procedures for installation and activation provided by NMFS and submit to NMFS the completed checklist and compliance certification statement. The VMS unit must submit automatic position reports every hour, 24 hours a day, unless a valid power down exemption has been granted by NMFS law enforcement. Owners of purse seine vessels may request a documented power down exemption from NMFS law enforcement if the vessel will not be fishing for an extended period of time. The request must describe the reason an exemption is being requested; the location of the vessel during the time an exemption is sought; the exact time period for which an exemption is needed; and sufficient information to determine that a power down exemption is appropriate. Prior to departing on a trip vessels that intend to fish for Atlantic tunas with purse seine gear must declare through E–MTU VMS their intent to fish with such gear and note their HMS target species), by submitting a "Highly Migratory Species Trip Declaration Form" ('hail out'). If a vessel operator is aware that transmission of automatic position reports has been interrupted, or is notified by NMFS that such reports are not being received, the vessel operatory must contact NMFS and follow the instructions given. After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must have a qualified marine electrician replace or repair the VMS unit prior to the vessel's next trip. Finally, as a condition of obtaining an HMS limited access permit, the vessel owners or operators must allow NMFS, the United States Coast Guard (USCG), or their designees access to the vessel's position data.

Vessels fishing for Atlantic tunas with purse seine gear must submit, through VMS, a "Highly Migratory Species Bluefin Tuna Catch Report" for each set. Specifically, such vessels must report the number of sets within 12 hours of the set; and report the length of all bluefin discarded dead or retained (by standardized size ranges) within 12 hours of completion of each the set (including reporting zero bluefin on a set). NMFS will provide vessel owners with instructions regarding the detailed methods of reporting such information using their VMS units. At least three hours prior to the end of a trip, the vessel operator must provide advanced notice of landing by submitted the "Highly Migratory Species Pre-Landing Notification Form" with information on the time and location of landing.

If a vessel operator decides not to fish for or retain HMS for two or more trips, the operator may choose to "declare out" of the fishery, according to instructions provided by NMFS, and not be subject to the HMS hail in/hail out requirements during trips for which they are declared out of the HMS fishery.

Vessels fishing with pelagic longline gear must report through VMS the number of hooks and sets within 12 hours of completion of each pelagic longline haul-backs and, for pelagic longline sets with bluefin tuna interactions, must report the length of all bluefin tuna retained or discarded dead (by standardized size ranges) within 12 hours of completion of the pelagic longline haul-back.

NMFS will make specific VMS reporting instructions available to the purse seine and pelagic longline fisheries to facilitate this reporting requirement.

Electronic Monitoring

The final rule adopts electronic monitoring requirements for all vessels issued an Atlantic Tunas Longline permit that fish with pelagic longline gear. This final rule requires all such vessels that are currently eligible to have a NMFS-approved contractor install a system and obtain certification of such installation. They must then properly maintain the video cameras and associated data recording and monitoring equipment, which will record all longline catch and relevant data regarding pelagic longline gear retrieval and deployment. NMFS will use the recorded data to verify the accuracy of counts and identification of bluefin tuna reported by the vessel owner/operator, as well as observers. Electronic monitoring will enable the collection of video images and fishing effort data that may be used in conjunction with other sources of information to estimate bluefin tuna dead discards, and may augment the ability of an observer to fulfill their duties by providing a record of catch during the time periods the observer may be unable to observe the catch directly.

In light of public comments expressing concern about ensuring the functionality of electronic monitoring systems and the costs of such systems, this final rule relieves certain purchase and installation requirements that were set out in the proposed rule. Rather than requiring currently eligible vessel owners to buy and install equipment and make decisions about equipment specifications and functionality, this final rule instead requires the currently eligible vessel owners to obtain certification from a NMFS-approved contractor stating that the contractor has properly installed and verified the functionality of the electronic monitoring system in accordance with more detailed equipment and system requirements provided in the final rule. As set out in the proposed rule, vessel owners would have been responsible for the costs of the equipment and for installation for the electronic monitoring systems. Since publication of the proposed rule and the FEIS, and in response to public comment and to ease the regulated community's burden associated with the new monitoring requirements, NMFS has identified funds to pay for the equipment and its installation for those currently eligible vessels (eligible for initial quota shares). For all vessels issued an Atlantic Tunas Longline permit that fish with pelagic longline gear, vessel owners (or their representatives) must coordinate with the NMFS-approved contractor to install and test electronic monitoring equipment, and the contractor will then provide certification that the equipment has been properly installed. Vessel owners will be required to make their vessel accessible to designated personnel on a specific date, or range of dates, to allow installation and testing of electronic monitoring equipment, and may be required to steam to a

designated port within their geographic region to enable such installation and training. This is consistent with the proposed rule's requirement that vessels be available for inspection, as it will not result in any additional absence from fishing time than was analyzed and proposed in the proposed rule or impose additional financial costs or regulatory burden.

To fish using pelagic longline gear, a vessel must have a valid certification form from the NMFS-approved contractor certifying that it has a fully functioning electronic monitoring system on board. Because the pelagic longline fleet is diverse with respect to vessel size, mechanical infrastructure, and operation, and the technology supporting electronic monitoring is changing and improving, NMFS is implementing detailed regulations that include some technical specifications regarding the necessary equipment that constitutes an electronic monitoring system to respond to public comment that more details are needed while still providing flexibility to allow vessels to install equipment that performs well in a cost effective manner. NMFS will utilize both third party experts and NMFS staff to provide vessel owners instructions regarding the specific required equipment and operational features of the system. As explained in more detail below, vessels must, in accordance with instructions provided by NMFS and/or NMFS-approved contractor, coordinate installation and maintain the following equipment, as components of an electronic monitoring system: Two to four video cameras, a recording device, video monitor, hydraulic pressure transducer, winch drum rotation sensor, system control box, GPS receiver, and related support equipment needed to achieve the objectives (*e.g.*, power supply, camera mounts, lighting). Slight modifications to the equipment listed above may be required to support the objectives of electronic monitoring, adapt to unique vessel characteristics, or achieve cost savings or efficiencies. Vessel owners/operators must coordinate installation and subsequently maintain and operate the system in accordance with instructions provide by NMFS, and allow inspection of the equipment by NMFS. The electronic monitoring system must include software to enable a test function so that the vessel operator may test the status of the system (*i.e.*, whether it is fully functional) prior to each trip, and record the outcome of the test. A vessel operator may not depart on a pelagic longline trip unless the pre-trip test indicates that the system is fully functioning. Upon successful installation and testing by the NMFS-approved contractor, the NMFS-approved contractor will provide vessel owners with a certificate that the equipment installed constitutes a "fully functioning electronic monitoring system" based on written instructions and requirements that NMFS provided the contractor. The vessel owner must make the certificate available upon request by NMFS OLE. The required cameras must be installed to provide a view of the area where the longline gear is retrieved and catch is removed from the hook (prior to placing in the hold or discarding boatside) and such system must be connected to the mechanical hauling device so that recording is initiated by gear retrieval. The specific equipment functionality requirements are as follows:

Video Cameras: Video data are produced by digital IP (Internet protocol) video cameras at a resolution of no less than 720p (1280×720). The individual vessel systems must include no less than two cameras: At least one camera to record close-up images of the deck at the haul back station for species identification/length estimation, and at least one camera to record activity along the side of the vessel at the water line of the haul back station to document animals that are caught and discarded but not brought aboard, as well as the disposition of that catch (released alive/dead). The frame rates of the footage will need to allow for easy of viewing. The cameras are not required to record audio.

GPS Receiver: A GPS receiver is required to produce output, which includes location coordinates, velocity, and heading data, and is directly logged continuously by the control box at a minimum rate of 10 seconds. The GPS receiver must be installed and remain in a location that receives a strong signal continuously.

Hydraulic & Drum Rotation Sensors: A hydraulic sensor is required to continuously monitor the hydraulic pressure, and a drum rotation sensor must continuously monitor drum rotations in order to provide the data necessary for the EM system to trigger the video camera to record. The combination of these two sensors provide a mechanism to ensure that specific periods of time are captured on video, such as when gear is being retrieved and catch is removed from the hooks.

EM Control Box & Monitor: The system must include a 'control box' to receive and store the raw data provided by the sensors and cameras. The control box must contain removable hard drives and storage system adequate to store data for the entire trip (*e.g.*, adequate to store the data associated with a trip lasting approximately 30 days). A wheelhouse monitor must provide a graphical user interface for harvesters to monitor the state and performance of the control box and should include information such as: Current date and time synced via GPS, GPS coordinates, current hydraulic pressure reading, presence of a data disk, percentage used of the data disk, and video recording status.

Hydraulics: Prior to system installation, vessel operators must possess and install a fitting for the pressure side of the line of the drum hydraulic system. The fitting may be either "T" or inline, with a female ¼" threaded National Pipe Thread (NPT) port to enable connection to the pressure transducer.

Power: Electronic monitoring systems are capable or being powered by both alternating current (AC) and direct current (DC) power. An EM system that is to be powered by a DC circuit must have free space on a 12-volt bus bar in the wheelhouse and a dedicated DC power switch. If the EM systems are to be powered by AC circuits, vessels must provide an Uninterrupted Power Supply (UPS) in the wheelhouse.

Camera Mounts: During installation of the EM system, cameras must be mounted so that the camera may be positioned to view the waterline outboard of the vessel rail. If determined during the vessel assessment that there is not suitable mounting structure onboard, vessels may be required to provide a mount that allows a camera to be positioned to view the waterline outboard of the vessel rail. Before each scheduled installation of an EM system, NMFS-approved contractors will discuss mounting alternatives with the vessel's owner or operator.

Lighting: Vessels must provide sufficient lighting for cameras to clearly illuminate individual fish on deck at the haul back station and along the vessel rail at the waterline, at all times. Lighting will be evaluated by NMFS-approved contractors during the vessel assessment/EM installation. After installation, if NMFS-approved contractors review video footage and determine that lighting is insufficient, the vessel owner must adjust the lighting to ensure it is sufficient before the EM system can be recertified.

Upon completion of a fishing trip, the vessel operator must mail the removable EM system hard drive containing all data to NMFS or the NMFS-approved contractor, within 48 hours of the

completion of the trip, according to instructions provided by NMFS. Prior to departing on a subsequent trip, the vessel owner or operator must install a replacement EM system hard drive to enable data and video recording. The vessel owner or operator is responsible for contacting NMFS, or NMFS-approved contractors, if they have not received a replacement hard drive(s). The vessel operator is responsible to ensure that all bluefin tuna are handled in a manner that enables the electronic monitoring system to record such fish, and must identify a crew person or employee responsible for ensuring that all handling, retention, and sorting of bluefin tuna occurs in accordance with the regulations. NMFS or the NMFS-approved contractor, with the vessel owner or operators" input, will develop and provide a written Vessel Monitoring Plan, to document the standardized procedures relating to electronic monitoring and facilitate communication of such procedures to the vessel crew. The vessel owner or operator is responsible for ensuring that the EM system remains powered for the duration of each trip; that cameras are cleaned routinely to ensure unobstructed views, and the EM system components are not tampered with.

NMFS will communicate instructional information in writing, via permit holder letters, to the vessel owners during all phases of the program to provide direction and assistance to vessel owners, and facilitate the provision of technical assistance.

Electronic Catch Reporting

This final rule requires Atlantic Tunas General, Harpoon, and HMS Charter/Headboat categories to report the length of all bluefin tuna retained or dead discards through an online catch reporting system (either through a Web site designated by NMFS or calling a phone number) within 24 hours of the landings or end of each trip. Specifically, vessels must report the number of bluefin tuna retained, and the number of bluefin tuna discarded dead, according to instructions that will be provided by NMFS. NMFS also operates a similar automated landings reporting system (ALRS) for recreational bluefin tuna catch in the HMS Angling and Charter/Headboat category (when fishing recreationally). This discard information will enhance NMFS's ability to more fully and accurately account for all sources of fishing mortality, consistent with ICCAT recommendations.

5. General Category Flexibility for Quota Adjustment

This final rule allows NMFS to proactively transfer General category quota from one or more of the time-periods that follow the January time-period to the January or other preceding sub-quota time periods within a fishing year, either through annual specifications or through inseason action. In other words, under this rule, NMFS may transfer subquota from one time period to another time period, earlier in the same calendar year. As described in more detail under Response to Comments (Comment 98), NMFS may transfer quota from the December sub-quota time period to the January sub-quota time period to address the unique characteristics of the January sub-quota period. For example, for an upcoming year (*i.e.*, prior to January), NMFS may transfer quota from the December to the January sub-quota period. NMFS may also conduct lower priority transfers of sub-quota between time periods, for example, subquota could be transferred from the October 1 through November 30 time period to the September time period.

This final rule adds a new objective called "quota adjustment" to the current list of criteria and relevant factors NMFS considers when making inseason or annual quota adjustments.

6. Harpoon Category NMFS Authority To Adjust Retention Limits

To optimize fishing opportunity for the Harpoon category participants within the available quota, NMFS may increase or decrease the daily retention limit of large medium bluefin tuna (greater than 73" CFL and less than 81" CFL) within a range from two to four fish. Any adjustment will be based upon the regulatory determination criteria under § 635.27(a)(8) (as revised by this final rule) that apply to inseason bluefin tuna adjustments including: 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 bluefin tuna 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 bluefin tuna; 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 review of dealer reports, daily landing trends, and the availability of the bluefin tuna on the fishing grounds, as well as any other relevant factors.

The default Harpoon category daily retention limit of large medium bluefin tuna will be two fish per vessel (the large medium bluefin tuna daily retention limit that applied prior to the 2011 regulatory change). The retention limit of giant bluefin tuna will remain unlimited. The objective of this measure is to optimize fishing opportunity for the Harpoon category participants within the available quota. This management measure enhances NMFS's ability to more precisely manage the landing rate of large medium bluefin tuna by the Harpoon category, thereby optimizing opportunities while preventing landings from exceeding the subquota.

7. Angling Category Trophy Subquota Distribution

This final rule allocates one third of the Angling category trophy subquota specifically to account for those bluefin tuna caught incidentally while pursuing other species in Gulf of Mexico. The trophy subquota would be divided as follows: 33 percent to each of the northern area, the southern area outside the Gulf of Mexico, and the Gulf of Mexico. Based upon the recent average trophy fish weight, this would allow up to 8 trophy bluefin tuna to be landed annually in each of the three respective areas. To distinguish bluefin tuna incidentally caught in the Gulf of Mexico from those caught in the Atlantic, the Gulf of Mexico region includes all waters of the U.S. EEZ west and north of the boundary stipulated at § 600.105(c), which is essentially west of 83° 00′ West longitude but also includes the waters off southwestern Florida and north of the Florida Keys.

The objective of this measure is to reduce discards for recreational vessels in the Atlantic and Gulf of Mexico, and account for incidentally caught bluefin tuna by converting a small number of potential dead discards in the Gulf of Mexico to potential landings. A separate subquota allocation for the Gulf of Mexico increases the likelihood that there will be trophy quota available to account for any potential incidental catch of bluefin tuna in that area, while still providing incentives not to target bluefin tuna.

8. Purse Seine Category Fishing Year Start Date

NMFS considered two alternatives at the proposed rule stage. The No Action Alternative would have maintained the current practice: The purse seine fishery starts on the default start date of July 15 each year unless NMFS takes action to delay the season start date to as late as August 15. A second alternative, which

was preferred in the proposed rule and in the FEIS, would change the default start date to June 1 (instead of July 15), unless NMFS takes action to delay the start date to as late as August 15. In the final rule, after considering public comments after the FEIS was published, HMS is choosing a third option that removes the default start date altogether. Instead, NMFS will establish the purse season start date annually, within a range from June 1 to August 15, based on the already-existing criteria in the regulations, which are unchanged in the final rule text. Although the third option was not directly analyzed as an alternative in the FEIS, the range of dates for possible opening (June 1–August 15) remains within the range analyzed in the FEIS (June 1–August 15 between the two alternatives), and the regulated community was aware that this range was being considered and that NMFS intended to retain maximum flexibility under any option to adjust the date as necessary to be responsive to the public and the fishery under the regulatory provisions. By relieving the default date, the new approach will allow additional public input to the start-date-setting process annually, is responsive to public comment (particularly from the harpoon category fishermen), and substantively does not result in effects different from those already analyzed. The only change from the current practice is that the fishery can start earlier now (June 1 instead of July 15), and the only change from the proposed rule is that there will be no default date.

9. Rules Regarding Permit Category Changes

This final rule allows a vessel owner to modify the category of an Atlantic Tunas or HMS permit issued for up to 45 days from date of issuance, provided the vessel has not landed bluefin tuna as verified via landings data. The previous restriction (10 calendar days) was intended to preclude vessels from fishing in more than one category during a year and to discourage speculative use of fishing permits. However, based on feedback NMFS has received over a number of years from vessel owners affected by the 10 day restriction, NMFS has concluded that limiting the time period during which a vessel may change permit categories to 10 calendar days is overly restrictive, and does not allow the flexibility to resolve the problems of a permit issued by mistake. The 45 day restriction achieves a better balance of allowing flexibility for vessel owners, while still preventing fishing in more than one permit category during a fishing year.

10. Northern Albacore Tuna Quota

This measure implements the U.S. annual quota of northern albacore tuna recommended by ICCAT and establishes provisions for the accounting of overharvest and underharvest of the quota via annual specifications. Specifically, the codified U.S. northern albacore tuna quota will be adjusted as appropriate for prior year catch (up or down), including delayed adjustment (that would skip a year) or adjustments over several years. Consistent with the ICCAT recommendation, carry-forward of unused quota from one year to the next will be limited to 25 percent of the initial quota. NMFS will adjust and implement the following via regulatory framework adjustments: Actions to implement ICCAT recommendations, as appropriate; allocating and refining domestic allocation of the U.S. quota; establishing retention limits; implementing effort restrictions, etc. Although an FMP amendment is not needed, framework adjustments still go through extensive public and analytical review and must be consistent with the MSA and other applicable law.

11. Adjustment of Management Measures

This final rule adds to the list of management measures that NMFS may modify or establish in accordance with the framework procedures of the 2006 Consolidated HMS FMP as amended, and provides examples of Amendment 7 measures that are within the scope of management measures currently listed in the regulations. With exceptions as noted under "Changes from Proposed Rule," these measures were contained within the proposed rule. The Amendment 7 measures not previously contained in the 2006 Consolidated HMS FMP are as follows: The quota shares or allocations for bluefin tuna; electronic monitoring requirements; and administration of the IBQ Program (including requirements pertaining to leasing of IBQ allocations, regional or minimum quota share requirements, quota share caps (individual or by category), permanent sale of shares, NED IBQ rules, etc.). The Amendment 7 measures that are within the scope of measures currently in the regulations are Performance metrics (within the scope of "time/area restrictions" in current regulations) and Angling category trophy south/north/Gulf of Mexico percentages (within the scope of "allocations among user groups" in current regulations).

12. Minor Regulatory Changes

Amendment 7 is implementing minor regulatory changes (such as minor corrections and clarifications; the removal or modification of obsolete cross-references; and minor changes to definitions and prohibitions) to improve the administration and enforcement of HMS regulations. Several of these items have been identified by constituents over the past few years or were raised during scoping hearings. The corrections, clarifications, changes in definitions, and modifications to remove obsolete cross-references are consistent with the intent of previously analyzed and approved management measures. Under § 635.5(c)(1), the relevant internet address will be updated. Under § 635.20(a), the method of determining length of Atlantic tunas will apply regardless of permit type. Regulations at § 635.21(c)(5)(iii)(B), will refer to a "gear restricted area," instead of a "closed" area. Under § 635.27(a)(7)(i), the reference to "Fishery-independent research" is changed to "research." Under § 635.27(a)(1)(iii), the descriptor "coastwide" when referring to the General category fishery, is deleted. Under § 635.71(b)(13), the prohibition is corrected to clarify that the relevant amount of bluefin tuna is the "applicable limit" instead of "a" bluefin tuna. These changes were not analyzed because they do not make substantive changes to the regulations.

This final rule notifies the public that the collection-of-information requirements contained in §§ 635.5, 635.9, 635.14, 635.15, and 635.69 have been approved by OMB and are effective. In addition this final rule will update the table on NOAA information collections approved by OMB that appears under 15 CFR part 902.

Response to Comments

NMFS received over 188,000 written comments from fishermen, states, environmental groups, academia and scientists, and other interested parties. Comments included submissions of large numbers of identical or similar comments by organizations (or facilitated by organizations), as well as oral statements made at public hearings. All written comments can be found at *http://www.regulations.gov/*. The comments received resulted in changes, as described below, and in the section of this final rule called "Changes from Proposed Rule". Significant comments are summarized below by major topic together with NMFS' responses. There are 29 major issues:

1. General Support for Proposed Measures

Comment 1: NMFS received a wide range of comments expressing general support for the proposed conservation and management measures. Commenters stated that the proposed measures are a step in the correct direction for the future management of bluefin tuna, many noting support for Amendment 7 due to the inclusion of "strong" management measures, and others supporting the measures generally but urging NMFS to adopt stronger management measures than those proposed. Commenters' support was based upon their concerns about the current status of the bluefin stock and the desire to ensure long-term sustainability of bluefin for future generations of people. Some commenters urged NMFS to implement the preferred alternatives to "Save the Bluefin," based on their perception that bluefin tuna are at imminent risk of going extinct. Commenters expressed concerns about the impacts of pelagic longline gear on bluefin tuna, noting the waste associated with discarding bluefin, especially in the Gulf of Mexico (GOM), and supported changes to the management of the pelagic longline fishery to reduce dead discards of bluefin tuna, as well as other highly migratory species, marine mammals, sea turtles, and other species. Commenters noted that many coastal communities depend upon healthy stocks of fish to contribute to their economic well-being and to that of individuals supported by commercial and recreational fisheries.

Response: The need for management action and the specific objectives of Amendment 7 are described in detail in Chapter 1 of the FEIS, and the proposed rule. This final rule implements a suite of management measures that will achieve the Amendment 7 objectives in a balanced manner. Amendment 7 enhances long-term sustainability of bluefin tuna through reduced dead discards; improved monitoring; increased flexibility in the quota system to both account for dead discards and optimize allocation of quota among the diverse bluefin fisheries; and increased accountability in the pelagic longline fishery.

Based upon the advice of ICCAT's Standing Committee on Research and Statistics, continued management with catch levels that comport with ICCAT recommendations should support further stock growth of the Western Atlantic stock of bluefin and is consistent with the ICCAT rebuilding plan given the current state of the science regarding the stock status. The MSA requires consideration of both the biological and economic impacts of conservation and management measures, and NMFS has determined that Amendment 7 measures will achieve a balance that will support the broader objectives of both stock rebuilding and continued viability of the commercial and recreational fisheries that depend upon bluefin tuna.

The GOM has an important function in the ecology of the Western Atlantic stock of bluefin. The responses to comments 50 through 62 address measures specific to the GOM. NMFS acknowledges that pelagic longline gear affects other species in addition to bluefin tuna and therefore, Amendment 7 measures may indirectly affect other species. As described in the FEIS analyses, the cumulative impacts on other species are likely to be neutral or positive.

2. General Concerns

Comment 2: Many commenters, particularly those with small businesses involved in the pelagic longline fishery expressed concern regarding the potential for negative economic impacts of Amendment 7 on jobs, families, and communities, and noted the importance of pelagic longline-caught fish in supplying high quality seafood to the nation. These commenters were concerned about the potential for the Amendment 7 measures to put people out of business, and "destroy the pelagic longline fishery." Commenters stated that vessels that are currently only marginally economically viable would be at particular risk of going out of business, but were also concerned about any secondary impacts on related businesses such seafood dealers, gear manufacturers, etc. They urged NMFS to use a balanced regulatory approach to address the Amendment 7 objectives, and stated that Amendment 7 measures would increase uncertainty in the pelagic longline fishery.

Response: The seafood supplied to the Nation by the pelagic longline fleet is valuable as both a source of food, and for the generation of income supporting local jobs, communities, and the broader economy. NMFS designed management measures to minimize economic impacts by relying on the combined effects of multiple management tools and incorporating flexibility into the system. Amendment 7 measures will affect all permit/quota categories and reflect the balance of addressing the issues confronting the bluefin tuna stock and management of the fishery while maintaining the viability of the pelagic longline and other fisheries dependent upon bluefin tuna. For example, reductions in dead discards will be achieved through the use of multiple measures, including gear restricted areas, the IBQ system, and IBQ allocation measures. This final rule will modify the quota system to increase management flexibility to allocate quota among categories and maximize opportunities to catch available quota, account for dead discards, and respond to changing conditions in the fishery. As the pelagic longline fleet is adjusting to

the suite of new measures, NMFS will have the flexibility to allocate a limited amount of additional quota to the pelagic longline vessels if necessary to prevent a fishery closure, and still, as a result of the gear restricted areas, and IBQ system, reduce the net amount of bluefin catch from the levels recently caught. The Amendment 7 management measures work together to reduce dead discards and otherwise reduce bycatch to the extent practicable, increase accountability, enhance reporting and monitoring, and optimize quota allocation, in a predictable but flexible manner. The potential economic impacts of the measures affecting the pelagic longline fleet are analyzed in Chapters 5 and 7, of the FEIS, and the economic rationale is summarized in the Final Regulatory Flexibility Analysis. Public comments that address specific measures are addressed below in the responses to more specific comments.

Comment 3: Commenters stated that when determining whether the pelagic longline fleet should be subject to additional restrictions, NMFS should consider the current and past regulatory environment and other factors as context. Commenters stated the pelagic longline fishery is already heavily regulated to minimize its environmental impacts, especially in the GOM (*e.g.,* closures, weak hook requirement, observer deployment, bait requirements), and that progress is being made. Furthermore, increases in fuel costs strain fishers' ability to make a living, and events such as the 2010 oil spill in the GOM continue to be relevant. Commenters noted that bluefin tuna is managed at the international level and believe that the United States manages its citizens in a more effective and responsible way than other countries, and that NMFS should not further regulate bluefin tuna and increase the management disparity between the United States and other countries.

Response: The context in which vessels operate, including current regulations and other factors was a relevant factor NMFS considered in determining whether new regulations were needed. NMFS took into consideration many factors in selecting preferred measures which address the diverse objectives of Amendment 7 in a balanced manner. Chapter 6 of the FEIS contains a cumulative impacts analysis which is broad in scope and takes into consideration past, present, and reasonably foreseeable factors. In addition, Chapter 2 in the FEIS contains a description of measures and the rationale for the preferred measures. The Final Regulatory Flexibility Analysis includes a description of the steps taken to minimize the economic impacts on small entities, and the reasons for the preferred measures.

The United States manages its exclusive economic zone in accordance with applicable U.S. laws and in response to the unique characteristics of its fisheries, and therefore the U.S. regulations regarding bluefin tuna are different from the rules affecting citizens of other countries, which operate under different laws and circumstances. Where U.S. regulations are more restrictive than those abroad, NMFS believes that the corresponding ecological and socio-economic benefits that result from such restrictions are also likely to be greater than those abroad.

Comment 4: Commenters stated that the Amendment 7 DEIS contained too much information, was too complex, and was difficult to understand. Others were concerned that the DEIS was developed too quickly, leaving out too many details such as those associated with implementation of measures.

Response: The proposed rule clearly described the proposed management measures, and NMFS facilitated communication with the public via the internet and its Web site. The amount and complexity of information in the DEIS and the FEIS reflect primarily the scope of the objectives of Amendment 7 and the number of alternatives analyzed. The complexity of the DEIS and FEIS also is due to the diversity of the bluefin tuna fisheries, and the number of applicable laws and processes (both national and international). The DEIS and FEIS contain an Executive Summary which provides a condensed version of the relevant information including tables of important information. NMFS conducted public hearings (including a language interpreter for one hearing) that were designed to inform the public of the proposed measures in a readily understandable format, as well as provide opportunities for the public to comment and ask questions.

Significant time and opportunity for public comment have gone into what has been a very thorough rulemaking process for this Amendment. The formal development of Amendment 7 began with the publication of the Notice of Intent (April 23, 2012; 78 FR 24161), which announced NMFS' intent to hold public scoping meetings to determine the scope and significance of issues to be analyzed in a DEIS and a potential amendment to the 2006 Consolidated HMS FMP. However, the informal development began several years previously. On June 1, 2009, NMFS published an Advanced Notice of Proposed Rulemaking (ANPR; 74 FR 26174) requesting specific comments on regulatory changes that would potentially increase opportunities for U.S. bluefin tuna and swordfish fisheries to fully harvest the U.S. quotas recommended by ICCAT while balancing continuing efforts to end BFT overfishing by 2010 and rebuild the stock by 2019 as set out in the 2006 Consolidated HMS FMP, consistent with the ICCAT rebuilding plan. The ANPR was in response to various public suggestions about bluefin tuna management during the previous two years, precipitated by declines in the total volume of bluefin tuna landings, which were well below the available U.S. quota, and a reduction in the overall allowable western Atlantic bluefin TAC recommended by ICCAT. In the ANPR, NMFS also requested public comment regarding the potential implementation of catch shares, LAPPs, and individual bycatch caps (IBCs) in highly migratory species fisheries. In response, NMFS received a wide range of suggestions for changes to the management of the U.S. bluefin tuna fisheries.

While the DEIS and proposed regulations contained sufficient detail for the public to understand the measures and their potential impacts, including implementation, the FEIS and this final rule provide additional details to clarify certain aspects of implementation. These are not new measures but clarification of measures within the scope of the impacts analyzed by the DEIS. The regulatory process of proposed and final rulemaking allows for such flexibility to respond to public comments and implement regulations that address the regulatory objectives. The changes made from the proposed rule are summarized in the section of this final rule called "Changes from Proposed Rule". The comment period was extended to allow maximum public participation in this process.

Comment 5: Some commenters asked why the focus of Amendment 7 is the pelagic longline fishery, perceived the Amendment as an "unfair attack" on this fishery, and asked why no additional restrictions were proposed for the General, Harpoon, or Angling categories. Other commenters did not want one user group in the fishery to bear the regulatory burden, but believed that all should sacrifice for the good of the fishery as a whole.

Response: The focus of Amendment 7 is the list of stated objectives, including reducing and accounting for dead

discards, optimizing quota allocations, and enhancing reporting and monitoring. Although many of the measures being implemented will apply to vessels fishing with pelagic longline gear, all user groups will be subject to new regulations as appropriate and necessary, to contribute to the sustainability of the bluefin fisheries. Amendment 7 fundamentally alters the pelagic longline bluefin tuna management structure in order to decrease dead discards and increase accountability, yet it also implements new restrictions for vessels fishing under the other permit categories. Although the components of the regulated bluefin fisheries are very different and therefore have been subject to different restrictions in the past, NMFS developed the Amendment 7 management measures based upon a common set of objectives.

Comment 6: NMFS should exempt pelagic longline fishery participants that have never interacted with bluefin tuna from the programs proposed in Amendment 7.

Response: Amendment 7 enhances long-term sustainability of bluefin tuna through reduced dead discards, improved monitoring, increased flexibility in the quota system to both account for dead discards and optimize allocation of quota among the diverse bluefin fisheries, and increased accountability in the pelagic longline fishery. NMFS acknowledges that some pelagic longline vessels may not encounter bluefin tuna as a function of where and how those individuals fish. However, the effective implementation of the management measures requires consistent treatment and participation of all of the participating vessels. NMFS cannot exclude individual HMS pelagic longline fishermen from the provisions of Amendment 7 given the mobility of the pelagic longline fleet and uncertainty about bluefin interactions by individual vessels in the future. Through this Amendment 7 final rule, NMFS is redesigning many operational aspects of the entire pelagic longline fleet. Exclusion of a small pool of individuals would create an inequitable management environment across the fleet. The measures implemented by this final rule do, however, include specific provisions that are based on the data that indicate that some participants have few or no interactions with bluefin. For example, under the IBQ program, eligible permitted vessels will receive a percentage share of the overall pelagic longline bluefin quota. The amount of quota share, either "high", "medium", or "low" will depend in part upon the vessel's historical rate of bluefin interactions. Vessels with a relatively low rate of bluefin interactions will qualify for a higher share of the total bluefin quota than vessels with a higher rate of interactions, and have access to the Cape Hatteras Pelagic Longline Gear Restricted Area.

Comment 7: Several commenters stated that the solution to the challenge of how to account for all catch (landings and dead discards) in the context of a limited quota is to increase the amount of quota allocated to the United States through ICCAT (instead of the measures proposed under Amendment 7).

Response: Although a larger U.S. quota would facilitate easier quota accounting (*i.e.*, ensure that the total bluefin landings and dead discards do not exceed the total bluefin quota), a larger quota, without concurrent changes to the 2006 Consolidated HMS FMP is a short-term solution and would not achieve the broader objectives of Amendment 7 or the 2006 Consolidated HMS FMP. For example, a larger quota would not reduce the relative amount of dead discards of bluefin by the pelagic longline fishery, increase accountability for the pelagic longline fishery, optimize and provide additional flexibility to the quota system, or enhance reporting and monitoring. Furthermore, the United States does not independently set the quota at ICCAT and any quota established must be based on the best available scientific information ICCAT members (including U.S. delegates) vote to recommend an appropriate bluefin quota, based on the recommendation of the ICCAT scientists (which include U.S. scientists).

3. Codified Reallocation

Comment 8: Many commenters did not support reallocation of additional quota to the Longline category as a means to achieve the Amendment 7 objectives. They stated that shifting quota would not reduce interactions with bluefin or dead discards and that providing additional quota would undercut the benefits of a "catch cap" (*i.e.*, setting a strict maximum/cap on the amount of bluefin that could be caught, including dead discards and landings), would discourage the use of alternative gears, and would reward a "destructive fishery" by moving quota from quota categories that fish with more selective gear to the Longline category, which fishes with less selective gear and has more bycatch.

Many commenters supported the codified reallocation for the reasons NMFS stated in the proposed rule, as well as other reasons including the statement that the Longline category may have a smaller 'carbon footprint' than the other quota categories; the other categories are frequently under-harvested; the Longline category provides the U.S consumer access to important food sources; the General category exports much of the bluefin tuna it catches; and all user groups should bear the regulatory burden.

Response: Amendment 7 implements systematic management and operational changes to reduce bluefin bycatch and maintain the pelagic longline directed fishery and the other bluefin tuna fisheries. The combined measures of this final rule, which include modified quota allocations, gear restricted areas, and individual bluefin quotas, will reduce bluefin catch and provide incentives to utilize alternative, more selective gear types. To achieve the Amendment 7 objectives of reducing dead discards while minimizing associated reductions in target catch, NMFS will allocate bluefin quota to the Longline category in amounts that exceed its current allocation of 8.1 percent, but will reduce levels of incidental bluefin catch by the Longline category. NMFS anticipates that the catch of bluefin by pelagic longline gear will be reduced by between 17 and 42 percent, depending upon the amount of quota allocated and leased, and fishery conditions. Some flexibility in the amount of quota allocated to the Longline and other quota categories is needed to accommodate the highly variable bluefin fisheries, as well as to mitigate some of the uncertainty and negative impacts associated with a brief transitional period in the pelagic longline fishery as it adjusts to the preferred Amendment measures.

As explained in the FEIS, there are several reasons why additional quota should be provided to the Longline category, as one element of a more comprehensive strategy to resolve the challenge of accounting for bluefin catch and reducing dead discards. The pelagic longline fishery interacts with bluefin tuna when it targets swordfish, yellowfin tuna, bigeye tuna, and other species, because the occurrence of those species overlap as a result of their similar biology and ecology. The Longline category is required to account for dead discards and landings, yet the historical basis for the relative size of the Longline category's quota allocation (8.1 percent) was only landings, and did not consider the amount of quota that could be necessary to account for dead discards in addition to those landings within the total allowable catch.

Based on the best available information, an allocation of 8.1 percent has been inadequate to account for both

landings and dead discards since ICCAT adopted a requirement to account for dead discards within the existing quota. In recent years, NMFS has accounted for pelagic longline bluefin dead discards by relying in part upon under harvest of quota by other quota categories. The merits of allocating additional quota to the Longline category must be considered in the context of all of the other management measures being implemented by Amendment 7. Because the Amendment 7 measures implemented by this final rule will provide quota accountability on an individual vessel and category-wide basis for the Longline category, the amount of quota allocated to the category is of critical importance. Specifically, when the quota allocated to an individual vessel has been caught, the use of pelagic longline gear by that vessel will be prohibited. If the category-wide quota has been caught NMFS may prohibit all vessels in the fleet from fishing with pelagic longline gear. Based on current information regarding the range of bluefin tuna interactions that can be expected, continuing to limit the Longline category to a quota of 8.1 percent of the available quota would result in a shut-down in the fishery relatively early in the year. Notwithstanding the other measures being implemented by this final rule, which will result in reductions in dead discards by vessels fishing with pelagic longline gear, a quota allocation of 8.1 percent quota would result in a severely diminished or eliminated fishery, contrary to the objective of optimizing fishing opportunities.

Comment 9: Commenters suggested that the amount of bluefin quota allocated to the Longline category should be reduced, or set at zero.

Response: As discussed in the response to Comment 8 there are several reasons why the Longline category quota should be increased. Moreover, reducing the Longline category quota would not be consistent with the Amendment 7 objectives and would result in severe economic impacts that can be avoided through the use of other management tools. NMFS designed the quota allocation measures to minimize the economic impacts on the non-longline categories. The amount of quota being deducted from each of the categories (for allocation to the Pelagic Longline category under the "Codified Reallocation Alternative") is proportional to the size of each category's quota and is relatively small (approximately 7 percent). Secondly, the amount of quota that will be deducted from the categories is fixed, therefore, if the U.S. bluefin quota increases as a result of stock growth, the amount deducted from the various categories will not increase, but the total quota allocated to each category would increase. Furthermore, the other quota allocation measures implemented by this final rule ("Annual Reallocation" and "Modifications to Reserve Category") provide mechanisms to reallocate quota back to these categories, if quota is available. The "Annual Reallocation Alternative" guarantees a minimum amount of quota to the participants in the Purse Seine fishery, and enables increases in quota allocations over time with increasing levels of bluefin catch. Providing an amount of bluefin quota to the pelagic longline fishery that both reduces dead discards, yet also accounts for a reasonable amount of incidental catch that can be anticipated (based on historical catch rates and the effect of Amendment 7 gear restricted areas) will enable the continued generation of revenue associated with the pelagic longline fishery's target catch.

Comment 10: One commenter stated that providing 68 mt of "additional quota" to the Longline category is not appropriate, and that the amount should be larger, because the discard estimation methodology that the amount was based on is no longer in use. Another commenter stated that the amount of additional quota should be smaller than 68 mt because the size of the U.S. quota has been reduced since the time the 68 mt set-aside was established.

Response: Although the codified reallocation measure is intended to facilitate accounting for dead discards by the Longline category, the specific amount (68 mt) is not intended to serve as an estimate of current dead discards or establish a proportion of discards to landings. NMFS prefers 68 mt as the amount of quota to be contributed from all categories, resulting in augmenting the Longline category by 62.5 mt, because the amount of additional quota achieves an appropriate balance of costs and benefits in the fishery and because of its historical relevance as a set-aside for dead discards, the inclusion of which was a critical factor in first establishing the formula under which all categories received their current allocations. No adjustment to those allocations was made when ICCAT first eliminated the dead discard allowance, and such an adjustment clearly is warranted given the resulting management challenges in accounting for both landings and dead discards within the available quota. Furthermore, providing a fixed amount of additional quota to the Longline category effectively limits the amount of reallocation into the future. In contrast, altering the base allocation percentages associated with each quota category would have had the potential effect of increasing the amount reallocation to the longline category if the total U.S. quota increases. Although increasing the amount of quota reallocated to the Pelagic Longline category in association with increases in total quota would facilitate accounting for incidental catch of bluefin and achieve one of the objectives of this Amendment, it would not effectively limit bycatch and reduce dead discards, which are also key objectives of Amendment 7.

Comment 11: Commentors suggested that NMFS should, instead of the "Codified Reallocation" of quota from all quota categories, reallocate quota from only the Purse Seine category; impose greater restrictions on the pelagic longline fishery to reduce their discards; or implement more restrictive gear restricted areas in the Gulf of Mexico and off Cape Hatteras in order to further reduce incidental bluefin tuna catch.

Response: NMFS prefers that all quota categories contribute to addressing the challenge of accounting for dead discards, which, as explained in the response to Comment 8 is a problem which has multiple root causes, and is integrally related to the operation and management of the fishery as a whole. This Amendment 7 final rule addresses the issue of the recurring under-harvest associated with the Purse Seine fishery through the "Annual Reallocation" measure, which provides a predictable method to optimize the use of Purse Seine quota that might otherwise remain unharvested. This final rule implements new conservation and management measures applicable only to the Longline category, which will limit bycatch, reduce dead discards, increase incentives to avoid bluefin, and increase accountability. NMFS disagrees that greater restrictions on the Longline category—instead of reallocating a limited amount of quota— would achieve the Amendment 7 objectives in a manner that minimizes economic impacts to the extent practicable. As explained in the response to Comment 9 above, NMFS designed the quota allocation measures to minimize the economic impacts on the non-longline categories. The alternatives take into consideration the relative size of each category quota (in the case of the "Codified Reallocation Alternative"), or the level of activity of vessels ("Annual Reallocation Alternative"), and are designed to consider changing levels of

quota or landings, respectively, in ways that reduce economic impacts.

Comment 12: Many commenters strongly opposed reallocating quota to the Longline category because of concerns about the economic impacts on a particular geographic region (*e.g.*, New England or mid-Atlantic), or quota category (*e.g.*, the General category or the Angling category). Some commenters urged NMFS to respect the historical allocation percentages, and noted that reallocation would have the effect of pitting the different categories against each other. Some commenters suggested that NMFS consider other regulatory and economic circumstances facing vessels that may be impacted by a reduced quota.

For example, Congressional representatives from Massachusetts, and the New England Fishery Management Council (Council) stated that the proposed reallocation would disadvantage the New England Fishery, the traditional Massachusetts fleet, and shore-side infrastructure, and would allow fleets from other regions to use a disproportionate amount of quota. They were concerned about the commercial fleet that is experiencing economic damage due to the decline in key stocks in the groundfish fishery. The Council suggested that NMFS assess the port-specific impacts of reallocation. A commenter was concerned that recreational vessels in the mid-Atlantic region would be disproportionately affected by quota reallocation because the quota may not last until the time the bluefin are off the mid-Atlantic coast.

Response: A reduction in quota may impact the revenue associated with a particular quota category or geographic region, or result in secondary economic impacts on a community. The FEIS analysis estimates that reallocation of quota to the Longline category could reduce revenue for individual vessels with a General category permit by $850 and result in total reduction in maximum revenue of $542,000 for all General category vessels. Although thirty percent of the General category permits are associated with the State of Massachusetts (1,150 permits as of October 2013), the total number of active vessels is substantially lower. Of the total number of General category permits issued throughout the Atlantic coast (3,783), the average number of General category vessels landing at least one bluefin between 2006 and 2012 was 474 vessels (total). Thus, the number of active vessels in Massachusetts can be presumed to be substantial fewer than 1,150.

When considering the social and economic impacts of actions, different communities and regions may be impacted to different degrees due to their unique regulatory and economic circumstances. The FEIS contains an analysis of the community impacts from the 2010 Deepwater Horizon/BP Oil Spill, and a 2013 analysis that presents social indicators of vulnerability and resistance for 25 communities selected for having a greater than average number of HMS permits associated with them. Those communities with relatively higher dependence upon commercial fishing included Dulac, LA; Grand Isle, LA; Venice, LA; Gloucester, MA; New Bedford, MA; Beaufort, NC; Wanchese, NC; Barnegat, NJ; Cape May, NJ; and Montauk, NY. The analyses are principally at a fishery-wide, or permit category level. The bluefin tuna fisheries (and other HMS fisheries) are widely distributed and highly variable due to the diversity of participants (location, gear types, commercial, recreational), and because bluefin tuna are highly migratory over thousands of miles, with an annual distribution that is highly variable. The specific ports and communities that provide the goods and services to support the fishery may vary as well, as vessels travel over large distances to pursue their target species. Due to this variability, it is difficult to predict potential revenue and secondary impacts of preferred management measures by port or by state. Vessels fishing in any geographic area in the Atlantic or Gulf of Mexico are likely to have only limited access to bluefin tuna, unless they travel long distances within the bluefin's migratory range.

It is important to note that the actual economic impacts of reallocation of quota depend upon the total amount of quota allocated to (and harvested from) each of the quota categories, as a result of the combined effect of all of the measures that affect quota. For example, in addition to the amount of quota available as a result of the percentage allocations, and deductions for the 68 mt Annual Reallocation, there may be quota available for redistribution to various quota categories. Specifically, pursuant to the preferred "Annual Reallocation" measure, as described in Chapter 2 of the FEIS, if the Purse Seine category has not caught 70 percent of its quota during the previous year, quota may be moved to the Reserve category and subsequently reallocated across multiple user groups. Furthermore, in recent years, many categories have not fully harvested their amount of quota available to them. Thus, the actual impacts of reallocation may be minor or may be mitigated by future reallocation when available.

Reallocation of quota may result in frustration or negative attitudes among fishery participants of different quota categories, due to the changes to an historically accepted quota allocation system, or perceptions of unfairness. However, the modifications to the quota system are warranted for the reasons described in the response to comments 8 through 13 and fair due to the fact that all quota categories are affected in proportion to their quota percentage.

As explained in the response to Comment # 9 above, NMFS designed the quota allocation measures to minimize the economic impacts on the non-longline categories. The management measures take into consideration the relative size of each category quota (in the case of the "Codified Reallocation Alternative", or the level of activity of vessels ("Annual Reallocation Alternative"), and are designed to consider changing levels of quota or landings, respectively, in ways that reduce negative economic impacts.

Comment 13: Many recreational anglers wanted to insulate the Angling category from any potential effect of quota reallocation to the Longline category, citing the economic impacts and high value of the recreational bluefin fishery to the economy, as well as the economic investments of the participants and the current regulatory burden such vessels face. Vessel owners with General category commercial permits expressed concern about the potential impacts to the General category. Commenters requested additional quantitative analyses comparing the different quota categories, including primary and secondary impacts.

Response: As stated above in the response to the previous comment, a reduction in quota may impact the revenue associated with a particular quota category or result in secondary economic impacts on a community. The objective of the allocation measures is not to reallocate quota based on economic optimization, but to: account for bluefin dead discards within the Longline category; reduce uncertainty in annual quota allocation and accounting; optimize fishing opportunity by increasing flexibility in the current bluefin quota allocation system; and ensure that the various quota categories are regulated fairly relative to one another.

The reallocation measures of this final rule will minimize adverse economic impacts to the extent practicable because the relative amount of quota reallocated is small and proportional to the size of the category quota, and the overall quota system will be more

flexible and predictable and able to offset some or all of the negative economic impacts. This approach was developed consistent with our obligation under National Standard 6 (Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches) and National Standard 8 (Conservation and management measures shall, consistent with the conservation requirements of this chapter (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.)

Although the FEIS includes estimates of the value of bluefin tuna quota by quota category for comparative purposes, the codified reallocation measure was not based on a specific economic analysis, but the achievement of the stated objectives.

An elaborate quantitative analysis that compares the economic value of the Angling, Longline, and General category fisheries was not conducted in the FEIS due to the different characteristics of the Angling, Longline and General category fisheries, the variable amount of data associated with these fisheries, and the large number of factors and assumptions that contribute to estimating the value of a fishery. For example, under the IBQ system implemented by Amendment 7, bluefin tuna quota may be a limiting factor for a pelagic longline vessel, and therefore the lack of adequate bluefin quota, by even a small amount, could result in a vessel being prohibited from fishing with pelagic longline gear. In that circumstance, the value of the bluefin quota to the vessel owner may be very high, and related to the value of the target catch (*e.g.*, swordfish or yellowfin tuna). On the other hand, the value of a bluefin tuna to a recreational angler or to the recreational fishery at-large may include the value of the recreational experience to the angler, as well as the associated goods and service supporting the fishing trip. The FEIS indicates that the Angling category would potentially face unquantified reductions in economic and social activity associated with the 7.36 percent reduction in available quota.

In contrast, for a vessel fishing commercially in the General category, a high quality bluefin tuna sold to Japan may be extremely valuable and other catch is far less important.

4. Annual Reallocation

Comment 14: Some commenters supported the annual reallocation measure as proposed, based on the underlying concept of tying the Purse Seine category annual allocation to the level of fishing activity by Purse Seine vessels (*i.e.*, "use or lose"), and the strategy of making unused quota available for use by other quota categories.

Response: The Amendment 7 annual reallocation measure represents an improvement to the quota system by implementing a predictable means to utilize quota that may otherwise remain unused. Because the reallocation of quota from the Purse Seine category to the Reserve will occur prior to the beginning of the calendar year and prior to the start of the Purse Seine fishery, there will be increased predictability in the quota system. In contrast, in the past, there was uncertainty that resulted from the fact that the amount of unharvested quota associated with the Purse Seine category which would be available for quota accounting was unknown until the end of the calendar year. Because of that timing problem, the ability for other users to catch any unharvested quota was markedly diminished.

Comment 15: Commenters suggested various modifications to the proposed annual reallocation measure. One commenter suggested that the concept be applied to the individual vessel instead of at the scale of the whole Purse Seine category in order to prevent the situation where an individual vessel may be disadvantaged. One commenter suggested that only 25 percent of the Purse Seine quota should be available for reallocation, instead of 75 percent. A commenter suggested that more than one year of catch should be the basis of the allocation, instead of a single year. One commenter suggested that the annual reallocation alternative be combined with an alternative that was not proposed, which would have allocated 40 percent of the Purse Seine category to the Longline category.

Response: In response to the comment that the annual reallocation measure should be implemented at the level of the individual vessel in order to prevent a situation where a vessel fishes its full allocation but, due to inactivity by other vessels, is only allocated a portion of its base allocation for the subsequent year, NMFS modified the preferred alternative, and is implementing the measure at a vessel level (as described in detail in the preamble above, and the FEIS). Under the measure implemented by this final rule, annual reallocation will be based on the previous year's individual purse seine participants catch rather than category-wide catch. This management measure will tie quota allocation more closely to individual Purse Seine participants catch and create incentive for fishery participants to remain active in the fishery. Thus, the individual allocation could either increase or decrease. Without this modification to the alternative (from that proposed), individual allocations would be tied to the catch of the other participants in the fishery, which could have unfair results if catch were to vary greatly among the vessels. For example, in a year where overall category landings were low, an individual purse seine participant could be allocated a relatively low amount of quota, even if they landed a substantial portion of their allocation the previous year. As such, the alternative would not tie the allocation to individual catch and thus would not encourage full use of the category quota, which would be inconsistent with the intent of this alternative.

Regarding the comment that only 25 percent of the Purse Seine allocation be available for reallocation (instead of 75 percent), if only a relatively small percentage of the quota were available for reallocation (and a relatively large percentage of the quota guaranteed for the Purse Seine allocation), there would be the possibility that Purse Seine participants remain inactive, yet only a relatively small percentage of the quota is transferred to the Reserve category. Such a scenario, which increases the likelihood that the Purse Seine quota as a whole may not be utilized by any category, would be inefficient and would not optimize the quota system. Making up to 75 percent of the quota available to the Reserve category will maximize the amount of quota that may be reallocated, and will provide a reasonable minimum amount for the Purse Seine participants. The measure implemented by this final rule guarantees vessels 25 percent of their base allocation, but makes up to 75 percent available for reallocation to the Reserve category, while not precluding Purse Seine participants from increasing their catches over time (multiple years).

Regarding the comment that more than one year of catch should be used as the basis of the Purse Seine allocation, a time scale of two years would reduce the relative importance of a single year's catch in determining subsequent quota allocations, but may also decrease the availability of quota. The method of annual reallocation being

implemented (*i.e.*, based on one year) will provide a better balance between providing a fair allocation to the Purse Seine category and providing a predictable system for utilizing quota among all categories that may otherwise be unused, and is consistent with the annual time scale applicable to quota related management measures (*i.e.*, the relevant time scale for most aspects of the quota system is annual).

Regarding the comment that the annual reallocation alternative should be combined with an annual allocation of 40 percent of the Purse Seine category to the Longline category, NMFS determined that the annual reallocation measure better meets the objectives of reducing uncertainty in annual quota allocation and accounting; optimizing fishing opportunity by increasing flexibility in the current bluefin quota allocation system; and ensuring that the various quota categories are regulated fairly in relative to one another. Under the annual reallocation measure implemented by this final rule, the amount of quota allocated to Purse Seine participants and the Reserve category is responsive to the level of activity of Purse Seine participants, but will not reduce the size of the Purse Seine category percentage (18.6 percent), which is the foundation upon which the allocations to Purse Seine participants are based. In contrast, combining this measure with an annual allocation of 40 percent of the Purse Seine category to the Longline category would substantially reduce the size of the Purse Seine allocation regardless of the level of activity by Purse Seine vessels. Such a reduction is not consistent with the objective of the measure. The objective of the management measure is not to reduce the size of the Purse Seine allocation, but to make Purse Seine quota available for use by other categories in a predictable manner (reflecting a Purse Seine vessel's previous year level of activity), as well as allow levels of fishing activity of Purse Seine vessels to increase within the scope of the category's allocation.

Comment 16: One commenter supported annual reallocation, but stated that the implementation of the annual reallocation measure should be linked to a Purse Seine fishery start date of June 1, as well as elimination of the provision limiting the relative amount of 73 to 81 inch bluefin Purse Seine vessels may retain. One commenter did not support annual reallocation due to the different retention rules applicable to the Longline and Purse Seine categories. One commenter did not support annual reallocation because of the perception that the Purse Seine category has not had the same fishing opportunities as the other categories due to low availability of giant (greater than 81 inch) bluefin, and the restriction on retention of large medium bluefin.

Response: NMFS agrees that the Annual Reallocation alternative should be evaluated in the context of other regulations applicable to the Purse Seine category and Longline category. Modification of the start date of the Purse Seine category to June 1 is one of the measures being implemented by this Amendment 7 final rule. NMFS considered but did not further analyze an alternative that would modify or relieve the tolerance limit for large-medium fish in the purse seine category. Such an alternative was not further considered for reasons explained in Chapter 2 of the FEIS, including because recent data was not available about fishery operations that reflected to what extent the purse seine fishery experienced regulatory dead discards as a result of the tolerance limit. In furtherance of gathering such data and in the interest of examining bycatch in the fishery, on August 1, 2014, NMFS issued an exempted fishing permit that will exempt a Purse Seine vessel from the annual incidental purse seine retention limit on the harvest of large medium Atlantic bluefin tuna, in order to investigate and gather such data. NMFS could consider changes to the Purse Seine category size restrictions in a future rulemaking after further data-gathering and consideration. The Annual Reallocation measure will not result in a negative ecological impact due to the different size restrictions applicable to the Purse Seine category and the Longline category as explained in Chapter 4 of the FEIS (the potential change in the amount of bluefin caught of different size categories is relatively small compared with the overall stock size).

Comment 17: Commenters did not support annual reallocation for a variety of reasons. One stated that the Purse Seine category should not have a fluctuating quota; one was concerned that the Longline category will take the entire Purse Seine quota in the future, and one was concerned that reallocation to the Longline category would increase discards.

Response: NMFS acknowledges that the Purse Seine quota may fluctuate under the annual reallocation measure, and that a fluctuating quota may have some negative implications for the Purse Seine fishery, such as challenges to long-term business planning, and fluctuating levels of revenue from the Purse Seine fishery. However, in the context of the fishery as a whole, the benefits of the annual reallocation measure are expected to outweigh the negative aspects, and the amount of quota fluctuation may be reduced by a consistent level of Purse Seine catches. Under the annual reallocation measure implemented by this final rule, Purse Seine participants will have similar fishing opportunities as the other commercial categories that direct on bluefin tuna, but if substantial portions of the quota remain unused, there will be a fair system to relocate quota in a predictable and efficient way. The annual reallocation system will also be responsive to any future increased levels of catch by Purse Seine participants. If a Purse Seine participant is allocated the minimum amount of quota (25 percent of its base quota), with increasing catch over time, the individual participant could be allocated 100 percent of their base quota three years after being allocated the minimum amount. For example if during the first year of fishing the participant caught 22 percent of their baseline quota, for year two they would be allocated 50 percent. During year two if the participant caught 46 percent of their baseline quota, for year three they would be allocated 75 percent of its baseline quota. If during year three they caught 71 percent of their baseline quota for year four they would be allocated 100 percent of its baseline quota.

Under the annual reallocation measure, quota will be reallocated to the Reserve category, and potentially then to any or all quota categories. Transfers of quota from the Reserve category may include transfers to the Longline category, but NMFS will consider and balance the needs of the fishery as a whole. Quota could also be allocated to the other fishery categories as appropriate, considering the relevant factors in that year. Specifically, NMFS will base such decisions on the criteria described under the "Modifications to the Reserve Category" measure, as well as other applicable regulations and laws (*e.g.*, the MSA National Standards (NS) such as the NS 9 requirement to minimize bycatch and bycatch mortality to the extent practicable).

5. Modification to Reserve Category

Comment 18: Several commenters supported the modifications to the Reserve category regulations, which would increase the amount of quota that may be put into the Reserve category and increase the potential uses of Reserve category quota. One commenter stated that NMFS should be authorized to allocate from the Reserve category at any time. A commenter suggested

splitting the Reserve category into quota derived from under-harvest, and quota transferred from the Purse Seine category, to increase transparency. One commenter suggested redistribution of unused Reserve quota to active Longline category vessels during the last quarter of the year. A commenter stated that NMFS should make up to 50 percent of the Reserve quota available to the Longline category during the first three years of the IBQ Program.

Response: The management measure regarding the Reserve category implemented by this final rule will provide additional management flexibility in the quota system and enable consideration of various quota strategies such as those suggested by the commenters. Although NMFS has the authority to allocate bluefin quota from the Reserve category at any time, the regulations implemented by Amendment 7 will enable NMFS to add underharvest from the previous year and any reallocated quota from the Purse Seine category to the Reserve category base allocation of 2.5 percent. Secondly, Amendment 7 adds new criteria to broaden and clarify the potential uses of the Reserve quota. It is not possible to evaluate the merits of the commenters' specific quota suggestions without any context. There are many potential uses of Reserve quota, including transfer to the Longline category in order to facilitate the transition to IBQs, or transfer to the General, Harpoon, Purse Seine, Angling, or Trap categories if warranted in order to increase fishing opportunity (while still preventing catch from exceeding the overall U.S. quota, and abiding by the other ICCAT restrictions). In order to facilitate transparency and full understanding of the quota system, NMFS will communicate clearly about how quota transfers are distributed among all quota categories, including descriptions of specific amount of quota derived from various sources.

Comment 19: A commenter did not support the addition of new criteria to the existing criteria regarding in-season transfer of quota among categories because the criteria are long-standing and provide adequate flexibility. Commenters did not want to allow the Reserve category to be "padded" to cover Longline category dead discards, and did not want most of the Reserve quota to go to the Longline category.

Response: The addition of the new criteria under Amendment 7 will not change the overall scope of NMFS authority to transfer quota among categories, but includes specific criteria that have the effect of clarifying potential uses of quota. NMFS agrees that an excessive amount of quota from the Reserve category should not be used to account for Longline category dead discards and has structured the alternatives to give management flexibility to move available quota to other categories as warranted. As stated in the response to Comment 8, under the Amendment 7 management measures, NMFS will allocate quota to the Longline category in amounts that exceed its current allocation of 8.1 percent of the current annual quota, but will not allow historic levels of bluefin catch by the Longline category catch. In evaluating the amount of quota to reallocate to any category (including the Longline category), NMFS will consider the regulatory criteria for quota transfer, which include broad biological and economic considerations (*e.g.,* "effects of the adjustment on accomplishing the objectives of the fishery management plan"). For example, with respect to transfers of quota to the Longline category, some important considerations may include the amount of dead discards by pelagic longline gear relative to the size of the Longline category quota, the overall trend in the amount of dead discards and landings in the Longline category, the effectiveness of gear restricted areas, the status of the bluefin stock, trends in relevant data reporting, the amount of uncertainty regarding dead discard information, the level of accountability for bluefin dead discards by vessels in other quota categories, and the economic benefits of quota transfers. For transfers to other categories, important considerations may include 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; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on bluefin rebuilding and overfishing; and effects of the adjustment on accomplishing the objectives of the FMP.

6. General Comments About Gear Restricted Areas

Comment 20: NMFS should avoid closures to the pelagic longline fishery. Any closure would disrupt markets.

Response: NMFS acknowledges that GRAs designed to reduce bluefin tuna interactions and regulatory discards and to thus decrease bycatch have costs associated with them, and may have disruptive effects on local markets. NMFS designed the gear restricted areas (*i.e.,* their timing and configuration) after considering the amount of reduced fishing opportunity as well as the amount of reduced bluefin interactions, in order to minimize potential disruptions in markets. NMFS designed the Cape Hatteras GRA to provide access opportunities to fishermen that have a proven ability to avoid bluefin, and are compliant with the observer and logbook requirements. As described in the Response to Comments # 46 and 47, NMFS specifically modified the Cape Hatteras Gear Restricted Area that was preferred in the DEIS, to reduce disruption to ongoing fishing in an adjacent area and therefore reduce potential economic impacts of the alternative. Evaluation of all alternatives considered both economic and ecological considerations (*i.e.,* the potential reductions in revenue associated with estimated reductions in bluefin interactions).

Comment 21: NMFS should not implement GRAs. NMFS received comments indicating that, due to a variety of reasons, commercial fishermen may be limited to certain fishing locations by the size and configuration of their vessels, insurance requirements, or safety concerns, and that some participants in the fishing fleet have nowhere else to fish (except in the location of the GRA) and they would be "shut out" of the fishery.

Response: The underlying concept of the Cape Hatteras GRA minimizes economic impacts by providing conditional access to the area, based on performance criteria. The majority of the pelagic longline fleet will be allowed to fish in the area upon implementation of this Amendment 7 final rule, and in the future if conditions for access continue to be met. In estimating ecological and socio-economic impacts of the Cape Hatteras GRA (called the "Modified" Cape Hatteras GRA in the FEIS), NMFS determined that 14 vessels (of 135 vessels) would not have access to this GRA. Of these 14 vessels, four vessels made over 75 percent of their sets in the Cape Hatteras GRA. Based upon the location of their historical catch, and to ensure that NMFS did not underestimate the potential economic impacts, the analysis assumes that these vessels would not redistribute effort outside of the GRA. Although these four vessels could redirect from fishing grounds off Oregon Inlet, NC to fishing grounds between Cape Fear and Cape Hatteras, such a change in fishing grounds may involve substantial costs (fuel, longer trips, possible transfer and dockage in a new port, etc.). However, NMFS modified the Cape Hatteras GRA

in a way that NMFS believes will achieve the reduction in bluefin discards, but will also allow fishermen to continue to deploy gear in regions south and west of the GRA and thereby reduce adverse impacts. With respect to the potential negative impacts of the Spring Gulf of Mexico GRA, approximately 61 vessels that fish in the Gulf of Mexico would be affected. Given the consistent pattern of historical catch of large numbers of bluefin tuna in certain times and locations by pelagic longline gear, NMFS determined that a GRA area in both the Gulf of Mexico and the Atlantic are necessary in order to achieve reductions in bluefin tuna dead discards, and that the potential economic impacts are unavoidable in order to achieve the necessary reductions. The potential negative socio-economic impacts were minimized by using an iterative process to design the gear restricted areas. The Spring Gulf of Mexico Pelagic Longline GRAs were designed in order to achieve a balance between a reduction in bluefin dead discards, protection of the Gulf of Mexico spawning stock, and continued operation of the pelagic longline fleet in the Gulf of Mexico. The specific boundaries of the area were determined by an iterative process that included consideration of public comment and input, by selecting areas of historical pelagic longline interactions with bluefin, and comparing both the anticipated reduction in bluefin interactions, and the estimated reduction in revenue, of different configurations. In addition, the time period was selected due to its occurrence during the peak bluefin spawning period in the Gulf of Mexico.

The magnitude of the potential economic impacts result from the specific location and duration of the GRA. The size of the Spring Gulf of Mexico Pelagic Longline GRA is based upon the historical location and number of bluefin interactions, as well as the recent persistent trend in fishing effort shifting to the east of this area, and the known variability in the fishery in general. A smaller geographic area would be unlikely to achieve meaningful reductions in bluefin tuna interactions. The duration of the GRA encompasses the months with the highest number of interactions during the spawning period. An alternate, or shorter time period would coincide with neither the highest number of bluefin interactions, nor the bluefin spawning period peak.

Comment 22: NMFS should evaluate the preferred alternatives for the Cape Hatteras GRA in light of the difficulties in implementing the Pelagic Longline Take Reduction Plan (a plan designed to reduce the incidental interactions of pelagic longline gear with marine mammals in order to reduce serious injury and mortality of long-finned and short-finned pilot whales and Risso's dolphins in the Atlantic).

Response: Several comments received suggested options similar to those currently employed under the Pelagic Longline Take Reduction Plan (described below). One comment noted the importance of developing a communication protocol similar to what is encouraged by the Pelagic Longline Take Reduction Plan for marine mammals. NMFS also encourages captains to communicate the location of bluefin to each other to aid fleet-wide avoidance practices. However, NMFS believes that this approach is best employed on a voluntary basis, as is done for marine mammals, given potential confidentiality concerns.

Mandatory aspects of the Pelagic Longline Take Reduction Plan include a requirement to post the marine mammal safe handling and release placard in the wheelhouse and on the working deck, a restriction of mainline length to no more than 20 nmi when fishing within the Mid-Atlantic Bight, and special observer and research participation requirements for vessels operating in the Cape Hatteras Special Research Area (CHSRA). Unlike the requirements for operating in the CHSRA, Amendment 7 does not require fishermen fishing in the Cape Hatteras GRA to notify the agency between 48 to 96 hours prior to making a trip in order to arrange for observer coverage or research participation, in part because notifications of intent to fish are a standard requirement through VMS. Additionally, Amendment 7 does not require fishermen to retain or post any new placards, nor does it change the requirements regarding mainline length restrictions. It is important to note that the provisions of Amendment 7 *do not* replace the provisions of CHSRA or the Pelagic Longline Take Reduction Plan; pelagic longline fishermen are still expected to fully comply with the requirements outlined in the Pelagic Longline Take Reduction Plan while fishing with pelagic longline gear in any part of the CHSRA that may overlap with the Cape Hatteras GRA.

Comment 23: A commenter stated that NOAA and ICCAT do not have sufficient scientific information to be able to predict where and when the distribution of bluefin may overlap with the pelagic longline fleet target species, and thus fishermen are also highly unlikely to be able to predictably avoid BFT while targeting other HMS species (swordfish, bigeye and yellowfin) except for certain times of year and in limited locations. Any rigid management framework that cannot adapt management to real-time distributions and availability of targeted and non-targeted HMS species will be unlikely to optimize yield, support economic viability, and eliminate discards.

Response: Bluefin tuna distribution is highly variable; however, the scientific literature as well as the data in the FEIS (Chapters 3 and 4) support the conclusion that there is sufficient consistency in the patterns of distribution to make GRAs an effective management tool on a long-term basis. If warranted by changes in the characteristics of the fishery (e.g, long-term shifts in the distribution of bluefin tuna and target species), NMFS can re-evaluate whether GRAs continue to be an effective management tool that appropriately balances the associated costs and benefits.

Comment 24: NMFS received suggestions to consider dynamic time-area closures because the distribution of bluefin is highly variable.

Response: In the Predraft of Amendment 7, NMFS considered a real-time monitoring system that would periodically close "hot spots" of bluefin interactions with the pelagic longline fleet. However, the Agency chose to not further analyze this alternative in the DEIS and the FEIS because a reporting and monitoring system to support this measure does not currently exist. Furthermore, the development and administration of such a system would be highly complex, and would require substantial resources to be able to fully monitor the entire region across which the pelagic longline fleet fishes, publish a rule quickly enough to respond to changing oceanic conditions, and provide adequate notice to the pelagic longline fleet. Instead of the dynamic measures supported by the commenter, which would respond to short-term aggregations of bluefin, the measures implemented by this final rule rely on a different strategy of reducing bluefin bycatch, based upon the long-term, consistent special and temporal patterns of bluefin distribution.

Comment 25: NMFS received comments asserting that the Agency lacks sufficient data to make a reliable determination regarding true interaction rates of any given vessel. Some commenters felt that NMFS should prohibit fishing in areas of concern until more reliable data collection methods are in place, whereas others felt that NMFS should not prohibit fishing until more reliable data collection methods are in place. Several commenters cited

weaknesses in logbook data and asserted that logbook data are not sufficient to verify vessel behavior, count interactions, or monitor bycatch.

Response: As indicated in the Response to Comment # 82 NMFS recognizes that some vessel operators may have under-reported in their logbooks the amount of bluefin tuna they have caught. NMFS conducted an analysis that compared logbook data to observer data to get an indication of how vessel-reported logbook data compares with observer data, because observer data can serve as a useful validation tool. Compared to the observer data, the logbook data showed both over-reporting and under-reporting of bluefin tuna, with the average amount of under-reporting of bluefin discards of 28 percent at the aggregate level for all vessels. Individual vessel data varied substantially from being more than 90 percent accurate with observer data for that trip to more than 75 percent inaccurate compared to observer data for that trip. These data indicate a wide range in reporting accuracy at a vessel level. Specific information on this analysis is in the Appendix of the FEIS. Notwithstanding potential under-reporting by some vessels, logbook data are the most complete source of available data regarding vessel level interactions with bluefin tuna because 100 percent of pelagic longline vessels are required to submit logbook reports for every set.

NMFS also analyzed observer data in order to verify the spatial and temporal patterns of bluefin interactions that were noted in the logbook data (Chapter 3 of FEIS). Although the observer data could not be compared directly to the logbook data because it is collected with lower frequency and at a different scale, the observer data indicated similar patterns of bluefin interactions as the logbook data. The logbook data represents the best available source of fine-scale information on bluefin interactions at this time. This final rule also implements enhanced monitoring and reporting requirements that will improve information on bluefin interactions in the pelagic longline fishery (*i.e.*, VMS and electronic monitoring).

Comment 26: NMFS received multiple comments regarding access to the GRAs based on performance. Comments 26–42 relate to specific performance criteria. A commenter stated that NMFS should include 2012 data in the IBQ Allocation calculations and GRA area access calculations.

Response: NMFS agrees that 2012 data should be included in these data calculations in order to reflect the characteristics of the fishery in the recent past. The 2012 data set represents the most recent calendar year for which complete data was available at the time the FIES analysis was begun. Therefore, in the FEIS NMFS included sets made in 2012 in the pool of data used to calculate the bluefin-to-designated target species ratios for allocation and GRA access analyses. NMFS also included 2012 data from the Pelagic Observer Program and the Logbook program to calculate the Observer and Logbook Compliance scores. NMFS also adjusted the historical qualification period from 2006 to 2011, to 2006 to 2012, in order to better reflect the variability in the fishery and account for recent trends.

Comment 27: Commenters expressed concern about access to the GRAs based on performance criteria based on logbook data, validity of which the commenter stated was questionable, given the possible incentives to misreport bluefin interactions through the logbook.

Response: As explained in Response to Comments 25 and 82 NMFS acknowledges that there are issues with logbook data accuracy; however, it offers the most comprehensive data on the fishery and provides a means to analyze individual vessel behavior. HMS logbook data represents a census of the fishery.

Comment 28: One commenter stated that there was no regulation that vessels must avoid bluefin tuna in the past, and vessels should not be singled out now for catching more bluefin by chance.

Response: Directed fishing on bluefin tuna with pelagic gear is not permitted. Any interactions with pelagic longline are incidental to other directed fishing and regulations have been designed to discourage any such interactions and to minimize bycatch to the extent practicable. NMFS has managed the pelagic longline fishery as an incidental category for bluefin for many years and has implemented a number of regulations to limit the bluefin that can be retained and to discourage interactions with bluefin (*e.g.*, limiting the number of bluefin that can be landed based on the weight of target species, implementing a time-area closure for bluefin in June in the northeast, requiring weak hooks in the Gulf of Mexico). The pelagic longline category as a whole has traditionally been allocated 8.1 percent of the total U.S. quota to cover incidental catch during directed fishing operations for other species, but those catches (including dead discards) have been significantly over that subquota in recent years.

Through analysis of logbook data between 2006 and 2012, NMFS noted that a small number of vessels were responsible for the majority of reported bluefin interactions. In this and previous rulemakings, members of the pelagic longline fleet have repeatedly asked for increased individual accountability in the fishery. Amendment 7 is implementing management measures that will address this situation, and will hold individuals accountable for their bluefin interactions.

Comment 29: NMFS should not penalize small vessels because of their inability of provide adequate space for observers.

Response: NMFS designed the scoring system for the Pelagic Observer Program Performance metric being implemented by this final rule such that valid reasons for not carrying an observer will not be penalized. Observer coverage is integral to the management of the fishery as it contributes important, objective data in support of the management of protected species and provides important information on the pelagic longline fishery utilized in the management of bluefin and other HMS species. Due to the importance of having enough observed trips to meet the observer coverage targets required by national and international obligations, NMFS also evaluated vessels on the number of trips observed. The agency utilizes observer data to develop estimates of protected resources interactions and estimates of discards of other species including bluefin. These data are essential for stock assessments and are critical in meeting international management obligations. Under ATCA and as a contracting party of ICCAT, the United States is required to take part in the collection of biological, catch, and effort statistics for research and management purposes.

Comment 30: NMFS received comments on the data used to calculate scores for performance metrics and IBQ allocations. NMFS received comments indicating that dolphinfish and wahoo from the HMS logbook needed to be included in the performance metric scoring. Several commenters requested the Agency include landings of designated target species (primarily dolphinfish and wahoo) reported in the coastal fisheries logbook in calculations used to assess IBQ and performance. Other commenters suggested that NMFS should use all pelagic longline logbooks in determining the Bluefin Avoidance Score.

Response: Dolphinfish and wahoo reported in the HMS logbook were used to develop scores for performance

metrics. However, landings of these species reported in the Coastal Fisheries Logbook were not used in the performance metrics for several reasons. (1) The Coastal Fisheries Logbook would not contain landings of the primary target species of the HMS pelagic longline fishery (swordfish and BAYS tunas), and would not provide for the reporting of bluefin tuna interactions. Therefore, the actual ratio of landings of designated target species to bluefin interactions cannot be accurately calculated for sets reported in the Coastal Fisheries Logbook. (2) Fishermen in the southeast Atlantic that report in the Coastal Fisheries Logbook could have an advantage over fishermen in the Gulf of Mexico or New England that do not have the same type of reporting requirements and the same mechanism to report retention of dolphinfish. (3) The HMS logbook and the Coastal Fisheries Logbook require different types of data to be reported which creates a mismatch in how the data can be combined and collectively analyzed, which in turn could result in inconsistencies between the two data sets. (4) Specific geographic data (*i.e.*, latitude and longitude for each set) that would were reported in the HMS logbook and used to identify and evaluate the ecological and economic effects of gear restricted areas are unavailable through the Coastal Fisheries Logbook. Rather, fishermen report location where the majority of all catches of each species were made through reference to a 1° latitude × 1° longitude grid cell. If NMFS were to incorporate data at the finest scale available (1° latitude × 1° longitude), NMFS would have to disregard the overwhelming number of requests for management (and visualization/depiction of data) at a finer scale. (5) The Coastal Fisheries Logbook requires landings *per trip* to be reported by weight whereas the HMS Logbook requires all interactions *per set* to be reported by number. Also, fishermen reporting in the Coastal Fisheries Logbook may report gutted or whole weight. (6) A percentage (20%) of fishermen reporting through the Coastal Fisheries Logbook are selected to report discarded fish through a Supplemental Discard and Gear Trip Report form at the trip level, whereas all fishermen reporting in the HMS Logbook must provide this information for every set, which also creates a mismatch in how data can be combined and collectively analyzed. For these reasons NMFS used dolphinfish and wahoo catch data from the HMS logbooks to develop scores for performance metrics, but did not use the landings data reported in the Coastal Fisheries Logbook.

Comment 31: NMFS should not base performance metrics on the Northeast Distant (NED) Area.

Response: NMFS incorporated all data reported through the HMS logbook in the calculation of performance metrics, regardless of where vessels fished. Exclusion of the sets made in the NED area could result in certain vessels that had a lot of fishing effort in this region receiving a competitive advantage or a disadvantage in terms of performance metric scores. Further, vessels that fish in the NED are not exempt from observer (if selected) or logbook reporting requirements.

Comment 32: NMFS should consider that, by allowing access based on the performance of a vessel, the new owner of a vessel may be evaluated based on prior poor vessel performance under a different owner.

Response: As explained below, NMFS determined that the relevant historical activity should be that associated with the vessel (and not the permit), and therefore, the preferred IBQ Program would evaluate vessels based on all activity attributed to that vessel through the qualification time period (2006–2012). In general, the use of historical data as part of an individual quota share (or a performance criteria) can be complex due to historical transfers of the limited access permit from one vessel to another or changes in vessel ownership. The quota share formula implemented by Amendment 7 is based upon historical data associated with a permitted vessel. NMFS determined that the historical 'platform' upon which to base the quota share should be the vessel history instead of the permit history for the following reasons: (1) Vessel history reflects current and historical participation in the fishery; (2) the regulations regarding the transfer of Atlantic Tunas Longline category permits do not address fishing history (*i.e.*, do not specify whether when an Atlantic Tunas Longline category permit is transferred from one vessel to another, whether the fishing history also transfers); and (3) the structure of the databases in which the logbook data resides uses the vessel as a key organizing feature, and therefore the compilation of data associated with a particular vessel is simpler and less prone to error (*i.e.*, it is more complex to compile data based on an individual permit history). However, once the initial allocations are established, bluefin quota shares will be associated with the permit for future vessel transactions. For example, if a permitted vessel has quota shares, and the owner of the permitted vessel decides to sell the permit but keep the vessel, the seller of the permit will no longer have any privileges with respect to the IBQ Program (they would only have fishing both without a permit). In contrast, the buyer of the permit would have the eligibility for the IBQ associated with that permit (although the permit buyer would need to put that permit on a vessel in order to receive quota allocation).

Comment 33: One commenter asked whether the public will know the identity of vessels excluded from the GRA.

Response: NMFS does not intend to publicly release the identity of vessels without access to the GRA.

Comment 34: NMFS received several suggestions concerning changes to the logbook performance metric, logbook reporting requirements, and requests for faster logbook submission methods. Some commenters felt that NMFS should not include a logbook performance metric. Commenters noted that logbook reports are usually late because it takes time to collect the required economic information, and sometimes fishermen are out for extended periods of time. Dealers sometime take 2 or more weeks to get a return done, which results in delays in submitting data to the Logbook Program. For offshore/distant water fishermen, it sometimes takes more than a week for the receipt of information from dealers, especially if the catch is offloaded in Canada. The commenters felt that if NMFS wants to retain this performance metric, the agency should require that dealer tally sheets be submitted separately from the logbooks. NMFS received suggestions to transition the logbook performance metric from the date of opening the letter to the date of receipt by the Agency to allow for contingencies such as a government shutdown (or other factors that may delay Agency officials from opening letters). A commenter felt that NMFS should establish a tolerance for the mailing of logbook reports from different parts of the country to Miami, FL, because fishermen in Florida have an advantage over fishermen based in more distant locations (*e.g.*, Maine) due to the length of time it takes to deliver mail. NMFS was asked to establish a process whereby fishermen can submit logbooks by fax or online to minimize delays due to the distance a letter has to travel.

Response: Current regulations require fishermen to submit logbooks within 7 days of offloading. Logbook reports must include weighout slips showing the dealer to whom fish were

transferred, the date of transferal, and the carcass weight of fish for which individual weights are recorded. Timely logbook reporting is a critical component of quota monitoring, particularly for species like HMS that have small annual or seasonal quotas. Many pelagic longline fishermen are able to comply with the requirement to submit logbooks within seven days. There are members of the fleet, however, that take months to a full year to submit logbook reports. These late reports, either late due to logistics or non-compliance, make quota management of HMS very difficult, especially if quotas are small. Amendment 7 will require catch reporting via VMS units to ensure timely report of bluefin catches. NMFS may pursue faster mechanisms to report logbooks in the future, such electronic logbooks.

Comment 35: NMFS should have solicited feedback on performance criteria from the industry. The commenter felt that NMFS developed the performance criteria in a "black box" and did not provide ample notification that the agency would be evaluating individuals on these metrics.

Response: Significant time and opportunity for public comment have gone into what has been a very thorough rulemaking process for this Amendment. NMFS repeatedly solicited public feedback and Advisory Panel input on the alternatives in Amendment 7, including the development of the performance criteria. NMFS has discussed the management of bluefin discards with the public and with the Advisory Panel since a 2009 Advanced Notice of Proposed Rulemaking. NMFS indicated in both the Predraft and the DEIS that a small number of individuals were responsible for the majority of bluefin interactions. NMFS received numerous public comments in Amendment 5 to the Consolidated HMS FMP indicating that the pelagic longline fleet desired individual accountability measures, instead of holding the entire fleet responsible for high interactions of a few vessels with dusky sharks. NMFS developed the performance criteria as a means to evaluate fishermen and hold them individually accountable for reduction of bluefin discards and compliance with the reporting and monitoring regulations. These performance criteria offer an alternative to fleet-wide time/area closures. Furthermore, the multiple criteria offer individuals who have moderate levels of bluefin interactions to still access GRAs provided that they comply with the reporting and monitoring requirements.

Reporting and observer requirements have been in place for several years, and NMFS regularly communicates with constituents concerning the rules pertaining to these programs. NMFS notifies individuals selected for reporting annually with letters that detail reporting requirements. Furthermore, NMFS produces outreach materials, compliance guides, and a Web site that clearly state reporting requirements. With respect to the observer program, NMFS also clearly notifies individuals of vessel selection for observer coverage. The Pelagic Observer Program regularly communicates with the points of contact (captains and vessel owners) regarding the organization and scheduling of observed trips. Commercial fishermen are therefore provided ample notification of the regulations concerning observer and logbook reporting.

Comment 36: NMFS should not deny access to individuals who are good bluefin avoiders. The intent of the rule is to reduce bluefin discards, not to penalize fishermen for being out of compliance with observer or reporting requirements. NMFS Office of Law Enforcement should be solely responsible for penalizing fishermen that are out of compliance.

Response: NMFS regulations that require fishermen to submit logbooks or to carry observers are designed to collect information that NMFS uses to manage HMS fisheries. When fishermen do not comply with such regulations, they jeopardize NMFS' ability to develop sound management strategies, conduct stock assessments with the best scientific information available, estimate bycatch interactions and bluefin discards, and comply with international treaty requirements. As such, under the Amendment 7 regulations, NMFS will consider a fisherman's compliance with current logbook and observer requirements when evaluating whether or not NMFS will grant that fisherman access to the Cape Hatteras GRA—an area where interactions with bluefin tuna are likely. NMFS wants to ensure that fishermen allowed access to the Cape Hatteras GRA will abide by all relevant regulations to facilitate monitoring of fishing activities in these areas.

Comment 37: NMFS should consider vessels that have no history or are new to the fishery as qualified to access the closed areas ("innocent until proven guilty"). Vessels should have a "clean slate" at the start of each year and access to the GRA. If they interact with too many BFT, then they should be closed out.

Response: The GRAs are selected as locations with relatively high numbers of historical bluefin interactions. The Bluefin Avoidance Score was designed to evaluate a vessel's ability to avoid bluefin tuna, relative to its landings. New entrants to the fishery will have performance metrics associated with the permit that the entrant purchased. All vessels will have a new performance score at the start of each year, based upon the three most recent years of available data, and therefore performance scores may improve over time.

Comment 38: Some commenters were concerned about the incentives that a conditional access program may provide.

Response: The concept of providing conditional access to a GRA (*i.e.*, the Modified Cape Hatteras Pelagic Longline GRA) is based on the historical data, which indicate that a relatively small number of vessels are responsible for a large portion of the bluefin tuna interactions. Because conditional access will be based upon the rate of bluefin tuna interactions (as well as reporting metrics), the program rules provide incentives to all pelagic longline vessels with respect to bluefin tuna interactions. Specifically, vessels with historically high bluefin tuna interactions that are not allowed access will have an incentive to reduce their rate of bluefin interactions if they desire to fish in the GRA. Conversely, vessels with a relatively low rate of bluefin interactions that are allowed to fish in the GRA will have an incentive to continue to avoid bluefin in order to maintain a low rate of bluefin interactions. In contrast, if all vessels were precluded from the Modified Cape Hatteras GRA, regardless of the amount of a vessel's interactions with bluefin, there would be no incentives with respect to the catch of bluefin tuna (and the scale of potential economic impacts would be disproportionate to the estimated amount of reduction in bluefin tuna interactions). No access to the Gulf of Mexico GRAs was proposed because the interactions with bluefin in the Gulf of Mexico are more evenly distributed among all of the vessels fishing there (and not concentrated among a few vessels as in the area off Cape Hatteras).

Comment 39: NMFS should not count bluefin interactions from sets made while participating in NMFS programs (*e.g.*, shark research fishery) towards the calculation of bluefin to designated target species ratios because fishermen fish differently on those trips.

Response: NMFS did not exclude such trips because of the relatively few

vessels that might be affected; participation in research programs could have affected vessels in either a positive or negative manner. In most instances, minor differences in the amounts of catch of either target species or bluefin would not likely affect a vessel's allocation due to the three tiered allocation system (*i.e.*, a range of catch values is designated to each of the three tiers), and the performance metric scoring system (based on a range of values). Fishermen that believe they have been disadvantaged through participation in research may appeal access and IBQ decisions through the two-stage appeal process.

Comment 40: NMFS should calculate performance metrics only on the most recent data available. NMFS needs to revisit criteria for inclusion—some vessels have hardly fished over the last few years.

Response: NMFS agrees that the inclusion of newer data is important. In the Predraft and the DEIS, NMFS analyzed and developed alternatives based on pelagic longline data from 2006 to 2011. NMFS included an additional year of logbook data (2012) in the FEIS analyses for each time-area alternative. In the FEIS, the 2006–2012 time period was chosen because the last significant bluefin fishery management action was the 2006 Consolidated HMS FMP, and therefore fishing behavior from prior to 2006 would have been based on previous management measures and may not be representative of the current fishery. The 2006 to 2012 time period is long enough to minimize the influence of one-time events such as natural or man-made disasters. NMFS intentionally designed the GRAs to be flexible and allow fishing vessels that have been affected by short-term events to participate in the pelagic longline fishery.

The Agency will distribute letters indicating the final performance metrics and what members of the fishery could expect by the start of the fishing year. Initial performance metrics will be calculated on the entire historical time period considered for determining IBQ allocations. However, in subsequent years, the performance metrics will be calculated on the previous three years of available data.

Comment 41: NMFS should not base access on history. High bluefin interactions in one year do not necessarily mean that there will be high bluefin interactions the following year.

Response: As noted in the response to Comment # 44 NMFS acknowledges that past performance may not be a perfect indicator of future performance. However, one of the objectives of the use of Performance Metrics is to provide incentives for future fishing behavior that will result in reduced rates of interactions between pelagic longline gear and bluefin. Although there is variability in fish distribution and activity from one year to the next, there are certain vessels that consistently report high interactions with bluefin tuna through logbooks. As explained in Response to Comment # 38 conditional access based on past performance provides continuing incentives to avoid bluefin tuna and to comply with relevant reporting and monitoring requirements.

Comment 42: NMFS should evaluate vessels on the number of interactions with protected resources (*e.g.*, pilot whales) as part of the criteria for accessing the Cape Hatteras GRA.

Response: Although Amendment 7 management measures are consistent with the relevant laws and regulations regarding protected species, the objectives upon which it is based did not include any specific objective regarding protected species, and did not include any specific management measures regarding protected species. Therefore the commenter's suggestion to incorporate criteria relating to protected resources is outside of the scope of the Amendment 7. The impacts of the Amendment 7 measures on protected species are analyzed in this FEIS.

7. Cape Hatteras Gear Restricted Area

Comment 43: NMFS received a large number of comments supporting the five-month Cape Hatteras Pelagic Longline GRA as proposed (DEIS preferred Alternative). NMFS also received comments suggesting modifications to the scope and duration of the area, and commented on whether or not conditional access to the area is appropriate.

Response: The Cape Hatteras area has consistently been a location where a high number of bluefin interactions with the pelagic longline fleet have occurred, and was initially identified in the Predraft to Amendment 7 as a geographic area where a GRA may be warranted. Responses to the specific suggestions regarding the Cape Hatteras GRA are below (see responses to comments 43–49. As described in comments 46 and 47, NMFS modified the preferred alternative in the FEIS (the "Modified Cape Hatteras Pelagic Longline GRA").

Comment 44: Some commenters supported the proposed GRA because access would be granted to some vessels, while other commenters stated that NMFS should implement GRAs without conditional access. Commenters noted that the Agency would be penalizing fishermen for bluefin interactions (specifically, discards) when there was not previously a regulation that required bluefin avoidance. Some commenters felt that the implementation of performance metrics is too severe a management measure, and fishermen that might be excluded from fishing in the Cape Hatteras GRA noted that the proposed measures would have severe economic implications for their businesses. Some commenters only supported the Cape Hatteras GRA if pelagic longline vessels are allowed to fish under General category rules in the area.

Response: Analysis of logbook data from 2006 through 2012 indicated that a relatively low number of vessels were responsible for the majority of bluefin interactions in the Atlantic. NMFS developed the concept of conditional access to the GRA in light of this pattern, in order to incentivize individual fishermen to avoid bluefin tuna, and to reduce economic impacts to the extent practicable.

A system of conditional access will hold fishermen individually accountable for their interactions, as opposed to holding the entire fleet responsible for high interactions by a small number of fishermen. Because conditional access will be based upon the rate of bluefin tuna interactions (as well as reporting metrics), the program rules will provide incentives to all pelagic longline vessels with respect to bluefin tuna interactions. Specifically, vessels with historically high bluefin tuna interactions that are not allowed access will have an incentive to reduce their rate of bluefin interactions if they desire to fish in the GRA. Conversely, vessels with a relatively low rate of bluefin interactions that are allowed to fish in the GRA will have an incentive to continue to avoid bluefin in order to maintain a low rate of bluefin interactions. In contrast, if all vessels were precluded from the Modified Cape Hatteras GRA, regardless of the amount of a vessel's interactions with bluefin, there would be no incentives with respect to the catch of bluefin tuna (and the scale of potential economic impacts would be disproportionate to the estimated amount of reduction in bluefin tuna interactions). No access to the Gulf of Mexico GRAs was proposed or implemented because the interactions with bluefin in the Gulf of Mexico are more evenly distributed among all of the vessels fishing there (and not concentrated among a few vessels as in the area off Cape Hatteras).

Regarding the comment that it is unfair to use past interactions with

bluefin as part of the allocation formula because in the past it was lawful to interact with bluefin tuna: Pelagic longline regulations were designed to limit or reduce retention of bluefin tuna (*e.g.*, target catch requirements, weak hook requirements). Therefore, it is appropriate that the IBQ Program implemented by this final rule provide some benefit in the form of IBQ allocation for vessels that may have fished in a manner that reduced interactions with, or avoided bluefin tuna, consistent with the regulations.

NMFS acknowledges that past performance may not be a perfect indicator of future performance. One of the objectives of the Cape Hatteras Pelagic Longline GRA measure implemented by this final rule is to provide incentives for future fishing behavior that will result in reduced rates of interactions between pelagic longline gear and bluefin. As explained in response to comment # 63 NMFS proposed, but is not implementing a measure that would have allowed pelagic longline vessels to fish under the General category rules.

NMFS acknowledges that some vessels could experience economic hardship due to not having access to the Cape Hatteras GRA. However the data indicate that there will also be substantial reductions in the number of bluefin tuna interactions associated with the changes in fishing behavior (*i.e.*, 34 percent reduction in bluefin discarded, and 6 percent reduction in bluefin kept, fishery-wide) as a result of this action. The performance metric system is designed to incentivize fishermen to avoid bluefin tuna and to comply with observer and reporting requirements. Based on the FEIS analysis, 14 vessels of 135 would not have access to the Cape Hatteras GRA being implemented. NMFS determined that, after redistribution of effort, there was not a sizable difference in the number of bluefin kept and discarded between implementation of the Cape Hatteras GRA without access for any vessels (−389 fish per year), and implementation of the original Cape Hatteras GRA with Access Based on Performance (−401 fish per year). The total economic losses as a result of implementing the proposed Cape Hatteras GRA for all vessels, the proposed Cape Hatteras GRA with Access Based on Performance, and the Modified Cape Hatteras GRA with Access Based on Performance being implemented, after redistribution of effort are −$893,562; −$301,651; and −$210,956, respectively. NMFS therefore is not implementing the GRA without access because the measure would result in a comparable reduction in bluefin interactions, but at nearly quadruple the cost in estimated economic losses for the pelagic longline fleet. The additional incentives that the performance metrics regarding compliance with logbook and observer requirements were also determined to be important to support the Amendment 7 objective regarding enhanced reporting and monitoring.

Comment 45: Commenters suggested that NMFS should modify the proposed Cape Hatteras GRA to include the areas north and east, as well as southwest of the proposed Cape Hatteras GRA, to address possible redistribution of fishing effort and other areas of moderate to high bluefin interactions. A commenter requested consideration of a specific extension of the proposed GRA northward to cover a region with moderate bluefin interaction in order to prevent increased fishing effort in the area as a result of redistribution by fishermen whose performance scores are not high enough to fish in the Cape Hatteras GRA. The commenter stated that the area could further act as a buffer to protect migrating bluefin tuna that aggregate there. NMFS also received a comment suggesting a GRA along the continental shelf between the Delmarva Peninsula and Georges Banks for the time periods of June through July, and November through December to complement the preferred alternatives.

Response: NMFS analyzed the impact of the suggested GRA to the north of the proposed Cape Hatteras GRA (assuming redistribution of fishing effort). The suggested extension to the north would result in a reduction of only 3 bluefin tuna, after redistribution of effort. Reductions in other species would be minor. While the suggested GRA would be small in both time and space, it is not anticipated to contribute much to the goal of reducing bluefin discards. For these reasons, NMFS considered but did not further analyze or otherwise include this suggested modification as an alternative in the FEIS.

NMFS also analyzed a GRA along the continental shelf between the Delmarva Peninsula and Georges Banks for the time periods of June through July and November through December and determined that the reduction in effort with redistribution would result in notable reduction in bluefin interactions (−48 fish/year kept; −310 fish/year discarded). However, the reductions in target catch would be substantial (bigeye tuna kept (−977 fish/year); yellowfin tuna kept (−1,206 fish/year); and the numbers of swordfish kept (−1,118/year)). That configuration, combined with the Cape Hatteras GRA, would close the majority of the continental shelf to fishermen that do not meet performance objectives. These suggested modifications did not achieve as much reduction in bluefin interactions compared with the reduction in target catch. Therefore, NMFS but did not include the suggested GRAs as an alternatives in the FEIS.

Comment 46: The North Carolina Department of Environment and Natural Resources and pelagic longline fishermen commented that NMFS should omit the southeast corner of the proposed GRA (preferred alternative in the DEIS) due to the prevailing direction of currents in this area, and the fact that gear set south or southwest of the Cape Hatteras GRA would drift into the GRA.

Response: NMFS analyzed additional spatial and temporal configurations of the Cape Hatteras GRA and determined that little conservation benefit could be expected from limiting access to this area and that the associated economic costs were not warranted. NMFS agrees that the prevailing currents would have effectively closed productive fishing grounds southwest of the GRA in federal waters off the coast of central and southern North Carolina. As a result of these analyses, and considerations, NMFS modified the measure from the configuration which was proposed to a gear restricted area during the same months (December through April), but with a slightly different configuration.

Comment 47: NMFS should consider the potential negative economic impact on fishermen in the area who do not have access to other fishing grounds.

Response: The design of the Cape Hatteras GRA being implemented by this final rule was the result of an iterative process. NMFS analyzed multiple time periods and geographic areas in order to take into consideration both the potential reduction in the number of bluefin interactions and the potential reductions in target catch. The analysis considered relevant fisheries data, and also oceanographic trends. In the DEIS, due to current patterns in the Cape Hatteras area, the zone affected by the proposed Cape Hatteras GRA was analyzed beyond itsexplicit boundaries. Analysis of a buffer region was needed because vessels to the south and west of the GRA would be prevented from fishing in these areas because their gear would drift into the GRA (having the effect of creating a larger affected geographic area that the boundary of the GRA). The DEIS analysis of impacts not only considered the reduced fishing effort within the GRA, but also the reduced fishing effort in a buffer region to the south and west of the area. NMFS included sets made in this buffer region

into the redistribution analyses. Based on public comment and additional analyses, NMFS decided to implement the Modified Cape Hatteras GRA, which will minimize the adverse impacts on fishing opportunities while still achieving comparable reductions of bluefin discards and almost identical conservation and management benefits as the original proposal.

Comment 48: NMFS should implement a GRA and have various requirements including mandatory observer coverage, electronic monitoring, or the use of weak hooks in order to fish the area. Several commenters suggested that NMFS implement the GRA and only allow access with 100 percent observer coverage.

Response: Observer coverage is an important tool in monitoring the pelagic longline fishery. Vessels with access to the Cape Hatteras GRA will be subject to the same level of observer coverage as the rest of the pelagic longline fleet. Electronic monitoring is an important aspect of the new IBQ Program, which includes the GRAs. Under Amendment 7 regulations, any vessel fishing with pelagic longline gear will be required to have an operational electronic monitoring system onboard. NMFS did not consider an alternative that would implement new weak hook requirements for the Atlantic, because we do not presently have data indicating that such measures would be effective in meeting the objectives of Amendment 7, given size differentials between fish in the Gulf of Mexico and the Atlantic and the current state of research on the subject.

Comment 49: NMFS should establish communication protocols designed to help fishermen minimize interactions for the regions of concern instead of implementing GRAs. One commenter suggested the establishment of communication protocols, similar to those designed for the Pelagic Longline Take Reduction Plan, be required within the boundaries of the Cape Hatteras GRA.

Response: Communication protocols can be valuable and could assist pelagic longline vessels to avoid bluefin tuna. Captains are already required to follow a communication protocol for pilot whales in this area. NMFS believes such a system would work best for bluefin avoidance if it were voluntary, and had the full support of those involved. However, in the interest of avoiding bluefin and minimizing the risk of shutting down the pelagic longline fishery, NMFS strongly encourages vessel captains to communicate the location of bluefin tuna with each other.

8. Gulf of Mexico Gear Restricted Area

Comment 50: A large number of commenters expressed general support for a GRA in the Gulf of Mexico, while others stated that NMFS should not implement a GOM GRA, due to the severe economic impact it would have on the fishery.

Response: Implementation of a GRA in the Gulf of Mexico supports the achievement of the Amendment 7 objectives. A GRA will, in conjunction with the other management measures implemented by this final rule, result in the reduction of dead discards of bluefin tuna by the pelagic longline fishery. Although implementation of a GRA will have a negative economic impact on the pelagic longline fishery, the preferred alternative will have less of an impact than some of the other alternatives considered and analyzed. As described in more detail in the responses to comments below, NMFS analyzed a range of alternatives, and took into account the importance of fishery resources to fishing communities by analyzing economic and social data. Because GRAs may result in the reduction and/or redistribution of fishing effort by pelagic longline gear, the preferred alternative represents a balance between anticipated reductions in dead discards of bluefin, and potential negative economic impacts on the pelagic longline fishery. Furthermore, the preferred alternative will support the broader objectives of both stock rebuilding as well as the continued viability of the commercial and recreational fisheries that depend upon bluefin tuna.

Comment 51: Some commenters supported the Amendment 7 alternative that would prohibit the use of pelagic longline gear throughout the Exclusive Economic Zone (EEZ), year-round, in order to protect spawning bluefin, and aggregations of bluefin. Some commenters noted the potential for a gulf-wide closure to reduce injuries and deaths of protected species such as sea turtles.

Response: NMFS analyzed the biological and socio-economic impacts of this Alternative, and although prohibition of pelagic longline gear would eliminate interactions between pelagic longline gear and bluefin in the Gulf of Mexico, such a prohibition would not minimize the reductions in target catch (*e.g.*, yellowfin tuna, swordfish) in the pelagic longline fishery or the and negative economic impacts on the fishery, both goals consistent with Amendment objectives. The prohibition of pelagic longline gear in the Gulf of Mexico EEZ (year round) would be expected to only result in a 14 percent decrease in the numbers of bluefin tuna discarded, yet would reduce revenue from pelagic longline gear by approximately $7.63 million per year, and affect up to 75 vessels.

NMFS also analyzed the possible effects of the GRA alternatives on multiple species, including sea turtles. The FEIS contains the results of the analyses that evaluated the GRA alternatives using redistribution analyses to ensure that the GRAs would not substantially increase interactions with sea turtles if fishermen were to redistribute their effort into open waters of the Atlantic Ocean. These analyses showed that there would be no net change in the average number of annual interactions with leatherback or loggerhead sea turtles for the Modified Cape Hatteras GRA, and a reduction of 1 interaction for these turtles for the Modified Spring Gulf of Mexico GRA. NMFS expects Amendment 7 measures implemented will have a neutral or minor beneficial impact on protected species as a result of potential impacts on fishing effort, especially fishing effort associated with pelagic longline gear.

The fisheries managed under the 2006 Consolidated Atlantic HMS FMP and its amendments have undergone formal and/or informal Section 7 consultation and collectively address the ongoing Atlantic HMS fisheries. On August 15, 2013, NMFS determined that the proposed measures in Amendment 7 to the 2006 Consolidated HMS FMP would not require reinitiation of formal consultation. The environmental effects of the preferred alternatives in this FEIS are substantially the same as those analyzed in the DEIS, although some different alternatives are now preferred and two of the alternatives have been slightly modified. No additional or substantively different effects on listed species are expected as a result of these changes. For detailed information on reinitiation of formal Section 7 consultation on HMS fisheries, see the Classification section.

Comment 52: Some commenters supported the Gulf of Mexico EEZ GRA, which would prohibit the use of pelagic longline gear from March through May, while others supported expanding the duration of the Gulf of Mexico EEZ GRA to include all the months during which bluefin tuna may be present in the Gulf of Mexico, or suggested specific ranges of months (*e.g.*, December through June, March through May, March through August). A large number of commenters felt that a GRA that encompassed the entire Gulf of Mexico EEZ would better account for variability in bluefin distribution and areas of spawning

activity and changing fishing patterns within the fleet. Many commenters believed that a larger GRA should be implemented instead of any changes to quota allocations, or felt that the implementation of such a GRA would eliminate the need for IBQs.

Response: In selecting the preferred alternative, NMFS analyzed the time and areas in which the highest number of bluefin interactions have occurred, in order to achieve meaningful reductions in bluefin catch by pelagic longline gear, but also to minimize the reductions in target catch. A Gulf of Mexico EEZ GRA encompassing the entire Gulf of Mexico EEZ for the suggested range of months was not justified. First, there exists an historical pattern of relatively high number of interactions occurring in particular locations and months. Additionally, a GRA encompassing the whole of the Gulf of Mexico EEZ would have included locations where there have been relatively few interactions. Similarly, inclusion of locations with relatively few historical interactions in the GRA would still preclude fishing with pelagic longline gear in such locations, increasing the likelihood of additional lost revenue, with relatively little reduction in bluefin interactions.

Inclusion of months during which there have been relatively few interactions would preclude fishing opportunity, with relatively little reduction in bluefin interactions. In Chapter 3 of the FEIS, Table 3.29 presents a breakdown of all bluefin tuna interactions reported in the HMS Logbook, by month, in the Gulf of Mexico EEZ. Although bluefin tuna were noted year round in the Gulf of Mexico, the data indicated distinct spatial and temporal patterns. For example, between 2006 and 2012, there were 13, 3, 13, 16, and 13 total bluefin tuna interactions reported in July, August, September, October, and November, respectively. In comparison, the months that some comments suggested for a GRA (March through May) had 266, 498, and 496 total bluefin interactions in March, April, and May, respectively. NMFS does not believe that a GRA is warranted at this time during the late summer or early fall based on the reported numbers of bluefin tuna that occurred in this area. There is variability in bluefin distribution, and fishing patterns may change over time. Due to this variability, any specific GRA that does not cover the whole EEZ year-round may be less effective, or more effective, at reducing dead discards than the historical data would indicate. Notwithstanding this variability, a specific GRA designed using historic information, and encompassing only a portion of the Gulf of Mexico for specific months is likely to reduce dead discards over a multi-year time scale. In other words over time there are consistent patterns in bluefin distribution that may not be exhibited to the same extent each year. Therefore, a GRA is not likely to achieve the same level of effectiveness each year, but over time is expected to achieve reductions in dead discards similar to that indicated by NMFS' analysis.

In analyzing the Gulf of Mexico closure alternatives in the FEIS, NMFS also considered the need to gather scientific data from the Gulf of Mexico longline fishery data for the development of effective conservation and management measures. A larger GRA for the Gulf of Mexico EEZ would severely reduce the collection of important data from the pelagic longline fishery and would increase uncertainty in the western Atlantic bluefin stock assessment. Gulf of Mexico pelagic longline data are critical to the development of catch per unit effort (CPUE) information, which is used as the index of abundance for spawning bluefin tuna, an important element of the stock assessment for western Atlantic bluefin tuna. Such uncertainty would make it more difficult to assess the status of stocks, to set the appropriate optimum yield and define overfishing levels, and to ensure that optimum yield is attained and overfishing levels are not exceeded.

NMFS conducted a "power analysis" to determine the number of pelagic longline sets that would be required to maintain the current level of precision for the CPUE and found that approximately 60 percent of the recent number of pelagic longline sets in the Gulf of Mexico would be required. Although NMFS could transition from using this fishery dependent data to another data source (*i.e.*, fishery independent data), it would require several years before a new fishery independent data source could be used for stock assessment purposes and an abrupt cessation of the current CPUE data would mean a break in the time series and increase uncertainty in stock assessment results. NMFS will continue to explore alternative methods for the collection of independent data. In contrast to a GRA applicable to the full EEZ, a GRA in the Gulf of Mexico with a smaller area and short duration will still be effective in reducing bycatch to the extent practicable and protecting spawning-sized bluefin while permitting allowable fishing and the collection of data needed for index of abundance. The size and duration of the GOM GRA being implemented by this final rule, will not preclude the collection of the necessary data in support of the stock assessments, and will reduce bycatch during the spawning season, as well as augment the IBQ Program in ensuring that catch does not exceed the quota.

With respect to the relationship between the size of a GRA and other Amendment 7 alternatives (*i.e.*, IBQs and quota allocation), the use of multiple management tools will reduce negative economic impacts on the pelagic longline fishery, as well as achieve the diverse Amendment 7 objectives in a balanced manner.

Comment 53: Several commenters expressed support for the Small Gulf of Mexico GRA in the DEIS, which was proposed, but is not being implemented. A number of comments indicated the Small Gulf of Mexico GRA was the minimum acceptable size for a GRA in the Gulf of Mexico, while other commenters did not support the proposed Small Gulf of Mexico GRA, feeling that NMFS ought to do more to protect bluefin in the Gulf of Mexico. A large number of commenters requested that the agency re-evaluate the GRA and identify other alternatives. One commenter felt the DEIS lacked compelling justification for choosing an alternative that does not protect all spawners and increases fishing pressure in critical areas of the Gulf of Mexico. Other commenters felt that the boundaries encompassed by the Small Gulf of Mexico GRA did not reflect the best scientific knowledge available. Specific suggestions included modification of the duration (change, shorten, lengthen, or include specific months) to cover peak spawning periods or provide a buffer due to variability in the timing and area of bluefin spawning activity and longline fishing patterns from year to year. Some commenters believed the months of the GRA should cover the full bluefin spawning period. Other commenters suggested that the GRA be extended to the east or north to encompassed additional known spawning areas, or extended south to cover areas where large numbers of interactions have occurred.

Response: As stated in the response to comments 50, 51, and 52, NMFS analyzed a range of GRA alternatives that encompass a range of biological and socio-economic impacts, and would achieve various amounts of reductions in bluefin interactions and result in different reductions in revenue. As explained above in the response to comments 51 and 52, a complete Gulf of Mexico EEZ closure for a full year or portion of the year is not warranted

because a smaller GRA is sufficient to achieve the Amendment 7 objectives and to minimize bycatch and bycatch mortality to the extent practicable. Based on public comment, NMFS analyzed the impacts of additional areas and times in the Gulf of Mexico, not analyzed in the DEIS, and included 2012 data. As a result of these additional analysis, and careful consideration of both the biological and socio-economic impacts, NMFS is implementing the Spring Modified Gulf of Mexico Pelagic Longline GRAs.

The Spring Modified Gulf of Mexico Pelagic Longline GRAs include most of the geographic area of the GRA that was originally proposed, but are larger, extending further to the east, and are slightly reduced in size on the western and northern borders. Additionally, the Spring Modified Gulf of Mexico Pelagic Longline GRAs include a second area that is adjacent to the southern border of the Desoto Canyon Closed Area's northwestern 'block.'

The Spring Modified Gulf of Mexico Pelagic Longline GRAs encompass additional areas of historic bluefin interaction in the eastern-central Gulf of Mexico, and address a recent shift in pelagic longline fishing activity eastward. Between 2009 and 2012, there was a 10 to 20 percent shift from the Mid-Gulf Louisiana region to the eastern Gulf of Mexico region. The area defined by the Spring Modified Gulf of Mexico Pelagic Longline GRAs includes a larger portion of the spawning areas documented in the peer-reviewed literature at this time, but does not include all of the known bluefin spawning areas in the GOM for reasons previously explained. The Spring Modified Gulf of Mexico Pelagic Longline GRAs will occur during the months of April and May, the same time period as proposed for the original Small Gulf of Mexico GRA.

NMFS previously regulated large portions of the eastern Gulf of Mexico through implementation of the DeSoto Canyon closed area, Madison-Swanson and Steamboat Lumps Sites, and the Edges closure. The pelagic longline fleet fishes the continental shelf along the west coast of Florida between the southern DeSoto Canyon box and the Florida Keys. However, bluefin interactions in this area are relatively few compared to the areas evaluated in the FEIS.

Comment 54: One commenter noted that the size of the fishable area in the Gulf of Mexico is already small, given the constraints on the locations where they can fish, including existing pelagic longline closed areas, as well as the areas that must be avoided for other reasons (*e.g.*, activity range of seismographic vessels, which can operate for up to six months, and oils rigs).

Response: NMFS acknowledges that the Spring Modified Gulf of Mexico Pelagic Longline GRAs being implemented by this final rule will further reduce the amount of fishable areas in the Gulf of Mexico available for the use of pelagic longline gear, and that vessels choosing to fish in the Gulf of Mexico with pelagic longline gear will need to work around other industrial users of Gulf of Mexico resources. NMFS selected the boundaries of the Spring Modified Gulf of Mexico GRAs with careful consideration of the associated benefits and costs. NMFS optimized the size of the GRAs being implemented to achieve a meaningful reduction in dead discards, and still leave fishing grounds open for the pelagic longline fleet. The Cumulative Impacts Analysis in the FEIS (Chapter 6) considers the impacts of the preferred alternatives in the broader context of other historical and current activities.

Comment 55: NMFS should consider the impact on the yellowfin tuna and swordfish fisheries, which are active in the Gulf of Mexico and in the areas covered by the GRAs. Specifically, the commenter questioned whether the Gulf of Mexico pelagic longline fleet would be able to remain active.

Response: NMFS carefully considered the impact of the Spring Modified Gulf of Mexico GRAs on yellowfin and swordfish fisheries, both of which are robust and healthy fisheries in the Gulf of Mexico. The Spring Modified Gulf of Mexico GRAs achieve a balance between conservation objectives and providing continuing opportunity for the swordfish and yellowfin tuna fisheries. The primary conservation objective of the GRAs is to reduce bluefin interactions, and reduce bycatch and bycatch mortality to the extent practicable. NMFS compared among the alternatives the amount of 'savings' of bluefin tuna and the reduction in target catch as part of its analysis of the GRAs. Under the Spring Modified Gulf of Mexico GRA being implemented, the annual reductions in revenue associated with the reduced catches of swordfish and yellowfin tuna are estimated at $41,504 and $207,110, respectively. The annual reduction in total revenue is estimated at $1,793,922. An example of how the data was compared and alternatives evaluated follows: Comparing the Spring Modified Gulf of Mexico GRA with the alternative that would restrict the full EEZ for the months of March through May, the reduction in the weight of bluefin catch would be a little more than twice as much under the EEZ GRA (44.2 mt versus 19.2 mt under the Spring Modified Gulf of Mexico GRA), but the reduction in total revenue associated with the EEZ GRA would be more than six times larger than the reduction in total revenue associated with the Spring Modified Gulf of Mexico GRA ($1,793,922 versus $281,614 under the Preferred). In other words, compared to the Spring Modified Gulf of Mexico GRA, the amount of additional costs that would be associated with the EEZ GRA would be disproportionately greater than the additional conservation benefits associated with the EEZ GRA. The Amendment 7 measures are not designed to target a particular amount of reduction in dead discards, but rather to reduce dead discards in a meaningful way, provide strong incentives to avoid and reduce bycatch, and take into account the potential impacts on the pelagic longline fishery. The combined effect of the Modified Spring Gulf of Mexico Pelagic Longline GRA and the Modified Cape Hatteras Pelagic Longline GRA will reduce the number of bluefin discarded by 40 percent, and the number of bluefin kept by 10 percent (fishery-wide).

Comment 56: One commenter asked why NMFS did not propose conditional access to the Gulf of Mexico GRAs, based on performance metrics, in contrast to the Cape Hatteras GRA, for which access was proposed. The commenter suggested that performance metrics should be applied to all GRAs.

Response: NMFS did not propose and is not implementing conditional access to the Gulf of Mexico GRAs (based on performance metrics) in part because they would not be as effective in reducing discards of bluefin tuna in the GOM as they would be in the Atlantic. The fact that a relatively small number of vessels are responsible for the majority of bluefin interactions in the Atlantic makes access to the Modified Cape Hatteras GRA based on performance metrics effective, in order to reduce dead discards, provide incentives for modifying fishing behavior, and acknowledge past performance. In contrast, the pattern of interactions with bluefin tuna in the GOM is different from that in the Atlantic, with the interactions more evenly distributed among all vessels (*i.e.*, more vessels responsible for the interactions). NMFS evaluated the Spring Modified Gulf of Mexico GRA using performance metrics, and applying them, only three vessels out of the 61 that fished in the Spring Modified Gulf of Mexico GRAs would not have had access to the GRAs.

Therefore, the savings from implementing the performance metrics would be very small, and the resulting ecological impacts would have been similar to not implementing a GRA at all.

Comment 57: Some commenters felt that NMFS should delineate a GRA using the same boundaries as the bluefin Habitat Area of Particular Concern (HAPC).

Response: NMFS determined that the reductions in bluefin tuna interactions resulting from a Gulf of Mexico GRA that encompasses the boundaries of the bluefin HAPC would be very similar to the savings incurred from a GRA drawn encompassing the boundaries of the Gulf of Mexico EEZ. NMFS therefore did not further evaluate a GRA that was designed to encompass the boundaries of the HAPC or develop an alternative around this proposed boundary.

Comment 58: A commenter indicated that he could support a Gulf of Mexico GRA alternative if the pelagic longline fleet is provided flexibility through some of the alternatives proposed such as access to current closed areas, and ability to fish under General Category rules.

Response: As described under the Response to Comments #63, and #64, access to certain closed areas, and the ability to fish under General Category rules in certain closed area were proposed but are not being finalized in this final rule. The measures implemented by Amendment 7 provide flexibility and balance the Amendment 7 objectives to reduce dead discards, yet also provide fishing opportunity.

Comment 59: The Gulf of Mexico Fishery Management Council commented that NMFS should consider potential impacts on vessels using bottom longline gear. They were concerned about the synergistic effects of the pelagic longline and bottom longline regulations on vessels.

Response: The Modified Spring Gulf of Mexico GRAs are designed for the pelagic longline fishery only. Vessels that exclusively use bottom longline gear would not be affected by the GRAs. Vessels that use both bottom longline gear and pelagic longline gear during the year would be impacted, and would likely modify their fishing behavior or business plan. Bottom longline gear is currently subject to regulations including time and area restrictions, and is not likely to capture bluefin tuna due its deployment near the bottom of the ocean.

Comment 60: NMFS should compensate vessels for the time period the Gulf of Mexico GRAs are in place.

Response: NMFS' authority to assist fishers in this way requires a determination of a commercial fishery failure due to a fishery resource disaster under section 312(a) of the MSA or section 308(b) of the Interjurisdictional Fisheries Act, followed by an appropriation from Congress. Neither of these have occurred.

Comment 61: NMFS should not distinguish between bluefin tuna in the Gulf of Mexico and Atlantic as they are from the same breeding stock.

Response: For the purposes of Amendment 7, NMFS differentiates between bluefin tuna in the Gulf of Mexico and bluefin tuna in the Atlantic for the implementation of certain management measures for a number of reasons. As noted above, the distribution of interactions across vessels is different between the Gulf of Mexico and the Atlantic. Gulf of Mexico bluefin tuna that interact with pelagic longline gear are often heavier and older than tuna that interact with pelagic longline gear in the Atlantic, and are found in spawning condition during certain months of the year. The pattern of discarding in the Gulf of Mexico is also very different from the discard pattern documented in the Atlantic (*i.e.*, larger fish discarded in the Gulf of Mexico). NMFS does not make such a distinction between Gulf of Mexico and Atlantic bluefin in the assessment of the bluefin stock. Although Gulf of Mexico bluefin often migrate up the east coast to feeding grounds in the northwest Atlantic Ocean, data suggest that some proportion of fish in the Atlantic are individuals from the eastern Atlantic and Mediterranean stock, whereas bluefin in the Gulf of Mexico are predominantly from the western Atlantic stock.

Comment 62: NMFS should examine observer data in addition to logbook data to estimate bluefin tuna savings; the estimate of savings in 2010 and 2011 is low because fishing effort was low in those years.

Response: NMFS acknowledges that estimates of savings might be low in 2010 and 2011 as a result of depressed effort due to the effects of the Deepwater Horizon oil spill. However, estimated savings are presented as an average from a 7-year period. Interannual variability is therefore incorporated into the estimation of ecological impacts of different GRA alternatives. NMFS developed GRA alternatives from HMS Logbook data because every fisherman must submit logbooks detailing activity and interactions with all fish kept, discarded alive, and discarded dead. While extremely useful in estimating dead discards, the observer program is not a complete census survey of the fishery, and the extent of observer coverage is not necessarily useful in assessing ecological or economic effects of GRAs. Furthermore, there is a percentage of vessels that have not been observed and NMFS determined that some of these vessels contributed sizable numbers of bluefin interactions in the Cape Hatteras GRA. NMFS, therefore, decided to base the estimation of impacts on HMS logbook data.

9. Pelagic Longline Vessels Fishing Under General Category Rules

Comment 63: Some commenters supported the proposed measure to allow vessels fishing with pelagic longline gear that are not authorized conditional access to the Cape Hatteras GRA, to fish under General category rules. Vessel owners wanted to have this type of fishing opportunity as mitigation for the lost opportunity of fishing with pelagic longline gear in the Cape Hatteras GRA, from December through April. Some commenters did not support the proposed opportunity for such vessels to fish under the General category rules for various reasons. Some asserted that the activity would be a "dangerous precedent," because limited access vessels would be allowed to fish under the rules applicable to an open access category, but General category vessels would not be allowed to fish as a pelagic longline vessel. Others were concerned about the expansion of a targeted bluefin fishery in the Cape Hatteras GRA, an area that already has large numbers of interactions with bluefin. A commenter found it ironic that vessels not allowed to fish with pelagic longline gear in the Cape Hatteras GRA (proposed in order to reduce bluefin interactions with pelagic longline gear) due to their low performance criteria score would be provided an opportunity to target bluefin tuna. Some noted concern about the potential impacts on the rate of harvest of the General category quota, which is limited, and the indirect impacts on General category vessels. Others noted that the replacement of pelagic longline gear with handgear (targeting bluefin) is not economically viable due to the size of the pelagic longline vessels and the associated trip expenses. A commenter stated that the proposed measure would facilitate trans-shipment of bluefin from Longline category to General category vessels. A commenter suggested that all pelagic longline vessels should be able to fish under the General category rules, and not only those affected by the GRA.

Response: Based upon public comment and further consideration,

NMFS is not implementing the management measure that would have allowed vessels fishing with pelagic longline gear that are not authorized conditional access to the Cape Hatteras GRA to fish under General category rules. While this measure would have provided additional fishing opportunities to pelagic longline vessels without access to the Cape Hatteras GRA, the differences in fishing costs and productivity between pelagic longline gear and handgear are great enough that handgear fishing for bluefin tuna would not be economically viable for a pelagic longline vessel. Given the unlikely -economic benefits as well as public perceptions of unfairness, the potential benefits of allowing vessels to fish under the General category rules do not outweigh the potential costs and risks associated with this activity.

10. Pelagic Longline Limited Conditional Access to Closed Areas

Comment 64: NMFS received a large number of comments that did not support the proposed limited conditional access to closed areas for vessels using pelagic longline gear, for a variety of reasons. Commenters, including the Florida Fish and Wildlife Conservation Commission, were foremost concerned about potential negative biological impacts on swordfish, billfish, and other species, as well as the indirect negative socio-economic impacts on the recreational fishing community if there were negative biological impacts. Specifically, commenters cited the benefits of the DeSoto Canyon and East Florida Coast closed areas contributing to the rebuilding of the swordfish stock, and the stabilization of the blue and white marlin stocks. Commenters stated that the biological analysis of the alternative was inadequate, and one commenter was concerned about the impacts on dusky sharks. Some commenters supported access, noting the importance of such access as a means to provide flexibility to pelagic longline vessels in the context of the IBQ Program restrictions, while others suggested modifications to the alternative such as allowing the use of electronic monitoring instead of human observers.

Response: Based upon public comment and further consideration of potential administrative costs, NMFS is not implementing this management measure. The potential benefits of allowing pelagic longline vessels limited conditional access to the closed areas would not outweigh the potential costs and risks associated with this activity. The objectives of the proposed measure were to maintain the relevant conservation aspects of the closure, balance the objectives of the closures, provide commercial data from within the closures, and provide additional fishing opportunities for permitted longline vessels (mitigating the potential negative economic impacts of Amendment 7). The East Florida Coast, Charleston Bump, and DeSoto Canyon Closed Area were implemented as part of a bycatch reduction strategy, based on three objectives: (1) Maximize the reduction in incidental catch of billfish and of swordfish less than 33 lb dressed weight; (2) minimize the reduction in the target catch of larger swordfish and other marketable species; and (3) ensure that the incidental catch of other species (*e.g.*, bluefin, marine mammals, and turtles) either remains unchanged or is reduced. Upon implementation, NMFS recognized that all three objectives might not be met to the maximum extent and that conflicting outcomes would require some balancing of the objectives. There are data that supports the assertion that the closed areas have contributed to the achievement of their objectives, in concert with other management measures. NMFS provides an annual review of the potential effectiveness of the current suite of management measures, including closed areas, at reducing bycatch in its annual SAFE report for HMS. Although this review does not isolate and quantify the effectiveness of closed areas as a separate management tool, the estimated reductions in discards of swordfish, blue marlin, white marlin, sailfish, and spearfish, as a result of all management measures, have remained consistently high (−50 to −70 percent), suggesting that the current suite of international and domestic management measures have played a significant role in allowing the United States to reduce its bycatch interactions. Given the likely benefits of the closed areas, the difficulty in determining the precise magnitude of the benefits of the closed areas in the context of other management measures, as well as the difficulty predicting the potential impacts that access to closed areas would have, NMFS believes that there is uncertainty whether in fact the first objective of the alternative (maintain relevant conservation aspects of the closure) would be met. The access to closed areas alternative did not include defined bycatch limits, but would have relied upon the assumption that low levels of fishing effort is sufficient to prevent excessive bycatch. Furthermore, there would be administrative costs associated with the access program. Therefore, the benefits associated with providing additional fishing opportunities (by providing access) would not outweigh the costs in terms of the risk of undermining the conservation benefits of the closed areas. With respect to providing commercial data from within the closures, as stated previously, NMFS may obtain data from within the closures through the use of exempted fishing permits.

11. Pelagic and Bottom Longline Transiting Closed Areas

Comment 65: The North Carolina Department of Environment and Natural Resources supported the preferred alternative (Alternative E8) to allow transiting of closed areas by vessels possessing bottom or pelagic longline gear.

Response: Allowing HMS vessels that possess bottom or pelagic longline gear on board to transit closed areas provided they remove and stow the gangions, hooks (unbaited), and buoys from the mainline and drum would reduce potential economic costs associated with indirect routes of travel (more time at sea and more fuel, etc.) as well as reduce potential safety-at-sea issues.

12. Gear-Based Measures

Comment 66: Authorizing buoy gear to be used by Swordfish Incidental permit holders to catch swordfish (Alternative B2b) and authorizing the harvest of bigeye, albacore, yellowfin and skipjack tunas ('BAYS') with buoy gear by Swordfish Directed and Incidental permit holders (Alternative B2c) would reduce dead discards in a direct manner and should be supported.

Response: Buoy gear used in and near the Florida Straits has been shown to be efficient at catching swordfish with a relatively low bycatch rate. However, due to a lack of data, it is unknown what the catch and bycatch of buoy gear would be when used to target swordfish at night in other areas of the Atlantic, Gulf of Mexico, U.S. Caribbean, and high seas or to target BAYS tunas in these areas during daylight hours. This lack of information makes assessing an expansion in the use of buoy gear for swordfish or tunas difficult, especially considering the potential to interact with adult bluefin tuna in the Gulf of Mexico, other HMS such as billfishes, or protected species in areas such as off the Outer Banks of North Carolina (as an example). NMFS is not implementing alternatives B2b or B2c because of the lack of available information needed to assess the ecological impacts of expanded buoy gear use when used to

target swordfish or BAYS tunas. NMFS will continue to assess additional information as it becomes available and may re-evaluate buoy gear fishery regulations in the future.

Comment 67: Pelagic longline fishermen should use more selective fishing gears such as greenstick gear and buoy gear and part of the *Deepwater Horizon* oil spill restoration funds should be used to help pelagic longline fishermen in the Gulf of Mexico make this transition. No financial hardship for fishing gear transition conducted as part of oil spill restoration efforts should fall upon affected fishers.

Response: This final rule does not implement a management measure that would require vessels to transition from pelagic longline to greenstick gear or buoy gear. However, under specific fishing permits, greenstick gear is currently authorized to fish for Atlantic tunas and buoy gear is authorized to fish for swordfish. Fishermen may utilize any legal fishing gear as authorized under the valid permits that are on their vessel when used in accordance with applicable regulations. Fishermen may change fishing gears in accordance with applicable regulations. "Prohibition of the Use of Pelagic Longline Gear in the HMS Fishery" is an alternative in the FEIS characterized as "Considered but Not Analyzed Further", because it would not provide a balanced approach to achieving the Amendment 7 objectives or be consistent with the provisions of the MSA. Amendment 7 management measures provide incentives for vessels to transition from pelagic longline gear to greenstick or buoy gear, but do not mandate such a transition.

The Oil Pollution Act of 1990 authorizes certain federal agencies, states, and Native American tribes, collectively known as the Natural Resource Trustees (trustees), to evaluate the impacts of oil spills on natural resources and recreation, and to plan restoration projects to fully offset those impacts. In the case of the *Deepwater Horizon* oil spill, NOAA is one of the nine trustees responsible for jointly conducting this process, which is known as a Natural Resource Damage Assessment (NRDA). Throughout the Deepwater Horizon oil spill NRDA process, the trustees have conducted multiple public comment periods and dozens of public meetings throughout the Gulf Coast states intended to gather input on the public's preferred approaches to natural resource restoration. The most recent public comment period related to the Deepwater Horizon oil spill restoration planning concluded on February 19, 2014. Throughout the NRDA process, the trustees have invited comments on broad types of restoration projects, as well as specific projects. In addition to accepting verbal comments at public meetings, the trustees have accepted comments and ideas by U.S. Mail, email to *nrda.projects@noaa.gov*, and via the Internet via *www.gulfspillrestoration.noaa.gov*. As part of their ongoing commitment to maximum transparency, the NRDA trustees have posted input gathered during these public comment periods online at *http://www.gulfspillrestoration.noaa.gov/restoration/give-us-your-ideas/view-submitted-projects/*. The NRDA trustees also continue to accept project ideas from the public by mail and via *http://www.gulfspillrestoration.noaa.gov/restoration/give-us-your-ideas/suggest-a-restoration-project/*. During the NRDA process, the trustees have received suggestions that restoration project funds help pelagic longline fishermen transition to greenstick and buoy gear.

13. General Comments About Individual Bluefin Quotas

Comment 68: Commenters supported implementation of the IBQ system in order to hold vessels accountable and provide incentives to reduce discards. Commenters noted that NMFS should provide some flexibility in the IBQ system, particularly in the short-term, to ensure that vessels, and especially small vessels, are able to adapt to the new restrictions and the overall program is successful. Commenters urged NMFS to continue to support the pelagic longline swordfish fishery, which is important for multiple reasons.

Response: Implementation of the IBQ system will increase the responsibility and accountability of individual vessels, and the pelagic longline fishery as a whole, for the catch of bluefin tuna. As explained in detail in the responses to more specific comments below, the IBQ system implemented by this final rule is designed to provide a reasonable and effective means of reducing dead discards, increasing accountability, and maintaining a viable pelagic longline fishery. The management measures are intended to provide flexibility at the level of the individual vessel, and in the quota system as a whole, so that the fishery can operate under the challenges of a substantially new regulatory structure. Furthermore, the fishery must be able to adapt on a continuing basis to the variability of highly migratory species, and changing ecological conditions.

Individual pelagic longline vessels have the flexibility to change their fishing practices through modification of fishing behavior (including time, location and methods of fishing, and the use of non-longline gear); increasing communication within the fishery to facilitate bluefin avoidance; and leasing of individual bluefin quota. Under Amendment 7, NMFS may also provide additional flexibility by allocating additional quota to the Longline category, as described in the response to Comments 18 and 19.

Comment 69: Some commenters stated that NMFS should consider some of the broad questions such as what will happen when the bluefin stock grows, which may lead to more dead discards; what about unintended consequences of the IBQ system such as creating a directed fishery; and what will happen to a vessel if they have an atypically large BFT catch event (also known as a "disaster set")?

Response: As the bluefin stock size continues to grow, the total number of interactions between the pelagic longline fleet and bluefin tuna may increase. However, the relative amount of dead discards by pelagic longline vessels (*e.g.*, percentage of total catch) may be a better way to evaluate a trend in the amount of dead discards rather than the absolute number. A second important metric of success of the IBQ Program will be whether the catch of bluefin by the Longline category exceeds the Longline category quota. Amendment 7 management measures are expected to reduce the percentage of bluefin catch that is comprised of discards (which from 2006 to 2012, ranged from 61 to 75 percent of the Longline bluefin catch), and prevent the catch of bluefin by pelagic longline vessels from exceeding the Longline category quota.

The IBQ Program will not create a directed fishery for bluefin by the pelagic longline fleet. Although pelagic longline vessels will be allocated bluefin quota and be able to derive revenue from the sale of legal-sized bluefin tuna, the quota share of bluefin tuna for each vessel is a relatively small percentage of the Longline category quota. Based on the size of recent Longline category quotas, individual vessels will be allocated the equivalent of between 2 and 13 bluefin tuna per year (depending upon the specific quota share percentage and whether the bluefin is a Gulf of Mexico or Atlantic bluefin). Due to the relatively small bluefin quota allocation per vessel, the requirement to utilize quota to account for both dead discards and landings, the requirement to have a minimum amount of quota to depart on a fishing trip using pelagic longline gear, and the cost

associated with leasing additional quota, there will be strong economic disincentives to target bluefin.

If a vessel catches an atypically large number of bluefin tuna (*i.e.*, a "disaster set"), Amendment 7 measures will allow the vessel to retain and sell all legal-sized bluefin, but prohibit the vessel from departing on a subsequent trip using pelagic longline gear until all the bluefin has been accounted for by leasing additional quota from another permitted vessel owner with quota allocation. This restriction will create a strong economic incentive to avoid bluefin tuna in order to not exceed individual bluefin quota. Furthermore, if the vessel in such circumstances holds quota share and at the end of the year would otherwise be eligible to receive quota share for the subsequent fishing year, the quota debt would be settled by deducting quota from the subsequent year's quota allocation. The quota debt would persist from one year to the next until settled.

Under Amendment 7 measures, NMFS may also consider transferring quota from the Reserve category to the Longline category, to make quota available for the fishery as a whole. With the exception of quota in support of research (*e.g.*, an Exempted Fishing Permit), NMFS may allocate additional quota to the Longline category as a whole via a disbursement of quota to eligible vessels via the IBQ Program for the purpose of accounting for bluefin catch. Under Amendment 7, NMFS' review of the IBQ Program after 3 years of operation will include anevaluation of the question of whether the IBQ system adequately addresses large catch events.

Comment 70: Some commenters had concerns about the legality of the IBQ Program and argued that NMFS should consider the legality of "diminishing a vessel's opportunity to catch its quota." Commenters stated that NMFS should not give a public resource to individuals for their financial benefit, and that the pelagic longline fishery should not profit from bluefin, but proceeds should be used for other programs and research.

Response: Allocation of fishery resources to individual entities under a catch share program is legal under the Magnuson-Stevens Act. The IBQ Program includes an allocated privilege of catching a specified portion of the total annual bluefin quota in the form of quota shares. IBQ shares are not property, but are a privilege to an amount of fish in a given year that can be renewed or revoked. Although pelagic longline vessel owners/operators may derive revenue from the sale of bluefin, bluefin is not expected to become a large proportion of their total revenue due to the low amount of bluefin quota and the other elements of the IBQ Program. Measures throughout the Amendment were specifically implemented to ensure that the pelagic longline BFT catch remains an incidental fishery, not a directed fishery. Although the management measures do not require a portion of the revenue from the sale of bluefin by Longline category vessels to fund research, NMFS may utilize bluefin quota from the Reserve category in support of relevant research.

Comment 71: A commenter stated that, in the Gulf of Mexico, NMFS should limit catch using gear restrictions and the use of alternative gears instead of IBQs. Some commenters noted that NMFS should separate Gulf of Mexico quota from Atlantic quota.

Response: A discussion of alternative gears is provided in the response to Comments 66 and 67. Alternative gears alone are unlikely to provide the same benefits of the IBQ Program, which will limit total catch and provide accountability at the level of individual vessels. The IBQ management measures include a provision that designates quota share as either Gulf of Mexico or Atlantic, and prohibits the use of Atlantic quota in the Gulf of Mexico to prevent potential increases in the relative amount of bluefin caught in the Gulf of Mexico.

Comment 72: Several commenters had concerns or made suggestions regarding some of the specific aspects of the design of the IBQ Program that are not among the principal design elements. These comments were as follows: NMFS should implement strict enforcement and fines associated with the IBQ system; the annual distribution of quota should take place in time for the January 1 start of the fishing year; NMFS should not allow quota to carryforward from year to year; NMFS should not allow vessels to land and sell bluefin without sufficient quota; money from the sale of bluefin should be put in escrow until quota is purchased to account for all catch, and; NMFS should not implement the IBQ system because it is too complex.

Response: Enforcement is an important aspect of ensuring the effectiveness of any regulatory program. New management tools such as the preferred electronic monitoring will augment NMFS' ability to effectively enforce the regulations.

On an annual basis, IBQ allocation will be distributed to eligible permit holders in time for vessels to begin fishing on January 1. Adjustments to the IBQ allocations may occur, but are not limited to changes in ICCAT recommendations, inseason actions, or NMFS' annual adjustment authority.

Under this final rule, if an eligible permit holder has been awarded IBQ allocation and does not fully utilize that IBQ allocation (*i.e.*, account for bluefin caught, or leases the IBQ allocation to another eligible participant) during the year, and has a balance of quota at the end of the year, the quota would not carry forward into the subsequent year as IBQ in association with a particular permit. However, based on the unused IBQ allocation associated with individual vessels, NMFS would calculate the total amount of unused IBQ allocation for the Longline category as a whole, and carry that quota forward (or a portion of that quota) as allowed under ICCAT into the subsequent fishing year. U.S. bluefin quota that is allowed to be carried forward from one year to the next will be placed in the Reserve category and may be reallocated to any/all domestic quota categories.

Under Amendment 7, pelagic longline vessel operators will be able to land and sell any legal-sized retained bluefin, in order to maintain full accountability, retain flexibility to accommodate variable bluefin catches, and to provide incentives to retain rather than discard fish. Although a vessel operator may land and sell bluefin in excess of their quota, they may not depart on a subsequent trip using pelagic longline gear until the fish have been fully accounted for with quota allocation. The revenue derived from the sale of the bluefin will facilitate the ability of a vessel owner to lease additional quota. If, at the end of the year, they have not paid the 'quota debt' with additional quota (obtained through leasing), the balance of quota owed will be 'paid' for from the subsequent year's allocation or the vessel will be prohibited from fishing with pelagic longline gear. The vessel owner is fully accountable.

In contrast, a system in which a vessel operator must place the revenue from the sale of a bluefin in escrow until they account for the fish with quota (as suggested by a commenter) is a more complex system that would provide a stronger incentive to discard bluefin, impose additional administrative burdens, and would not provide the flexibility a vessel operator may need. If while still at sea the vessel operator catches more bluefin than they have quota,, there would be more incentive to discard the fish because the vessel owner would face the uncertainty of whether they would be able to lease quota (and at what price) and the operator would be uncertain whether or not any revenue could be derived from

the sale of the bluefin. If the revenue were to be placed in escrow, the vessel operator may have insufficient revenue to lease additional quota allocation, and therefore the system itself would be an impediment to the operation of a leasing market. Additionally, there would be questions associated with an escrow requirement such as: If the vessel operator is unable to lease additional quota, and forfeited the revenue, would the vessel still be responsible for accounting for the bluefin, (*i.e.*, would the 'quota debt' remain with the vessel into the following year), even though the vessel owner never obtained any revenue from the fish?

Although the IBQ Program will result in a more complex management system than currently exists, NMFS has minimized complexity in the design of the preferred management measures (including the IBQ Program), and has noted examples in the Response to Comments. While this is first catch share program for Atlantic HMS fisheries, the elements and approach of the Amendment 7 IBQ Program are similar to that of the many successful catch share programs currently in operation in the United States. NMFS will educate the public regarding the program, and provide the public with ongoing access to the information to facilitate the smooth operation of the preferred IBQ Program and enhance transparency.

Comment 73: Commenters noted that NMFS did not provide adequate details in the proposed rule regarding the relationship of the Northeast Distant Area (NED) to the IBQ Program and suggested that the current bluefin possession limit be maintained in the NED, but when the limit is reached, the vessel should fish under their IBQ.

Response: Under current ICCAT recommendations, the NED is a distinctly managed geographic area managed under a separate quota than the rest of the fishery. Therefore, the quota associated with the NED (25 mt) will not be part of the Amendment 7 quota allocation measures, or managed under the IBQ Program. However, there are provisions of the IBQ Program that will apply to vessels fishing with pelagic longline gear in the NED. For example, vessels will be required to have the minimum IBQ allocation to operate in the NED starting in 2016 and, when NED bluefin quota has been exhausted, permitted vessels must abide by all the requirements of the IBQ Program. Electronic monitoring systems, installed by June 1, 2015, will be required to fish with pelagic longline gear including in the NED, and data from the electronic monitoring system may be used to ensure that targeting fishing is not occurring. NMFs reminds the regulated community that the international separate allocation is only for bycatch in the NED, and there are domestic prohibitions against targeting bluefin tuna using pelagic longline gear. NMFS will re-visit this issue if necessary if subsequent years' data indicate that additional controls are needed.

Comment 74: Several commenters made suggestions that the IBQ Program be split apart from the other major elements of Amendment 7 and implemented sequentially through separate regulatory actions (amendments). One commenter requested that the first amendment focus on the Longline category management measures (individual bluefin quotas and gear restricted areas), and that any quota reallocation among quota categories or enhanced reporting for non-Longline categories only be considered after additional information is obtained from the pelagic longline fishery operating under the IBQ system. The North Carolina Department of Natural Resources suggested that the GRAs and allocation measures should be implemented first, followed by the IBQs, and the Mid-Atlantic Fishery Management Council suggested that the IBQs should follow in a separate action (with additional analyses and alternatives).

Response: This final rule implements a wide range of regulatory measures through a single action, because comprehensive modifications to many aspects of the bluefin tuna fisheries are needed, and the management measures are highly inter-related. Amendment 7 utilizes a holistic approach to address the complex problems effectively, and minimizes potential negative economic impacts. For example, to first focus on management of the Longline category in isolation and delay consideration of other measures such as reallocation and enhanced reporting for non-Longline category vessels would ignore the current differences in reporting requirements among quota categories, continue a high level of uncertainty in the quota system, and would fail to minimize adverse economic impacts for the Longline category.

Accountability for bluefin catch by the Longline category is a high priority, and the IBQ Program provides such accountability. It ensures that the fishery operates within the allowable quota established by ICCAT consistent with the rebuilding program, and minimizes bycatch to the extent practicable, in a manner that will have less adverse economic impacts than the other alternatives analyzed (Regional or Group Quota Controls). NMFS considered and analyzed multiple alternatives for all elements of the IBQ Program in the DEIS and FEIS, and will fully evaluate the IBQ Program after three years of operation.

Comment 75: The Louisiana Department of Natural Resources (Louisiana DNR) commented that Amendment 7 will have large negative socio-economic impacts on the Gulf of Mexico pelagic longline fishery. Louisiana DNR asserts the greatest negative impact will occur in Louisiana, with minimal benefits to the bluefin stock, and attributed the economic impacts mostly to the IBQ Program, which it feels is inconsistent with the Louisiana Coastal Resources Program. Louisiana DNR noted that the potential benefits to the stock of bluefin tuna are minimal compared to the potentially large socio-economic impact to the targeted fisheries, and NMFS' consistency determination lacks sufficient data and information.

Response: NMFS has concluded that Amendment 7 is fully consistent with the enforceable policies of the management program, though the State of Louisiana objects. The FEIS analysis demonstrates that NMFS utilized many of the factors cited by Louisiana DNR as lacking in NMFS' evaluation. NMFS also explored the availability of alternative methods of achieving the Amendment 7 objectives, and considered the economic impacts, as well as the long term benefits of the measures. The alternative methods to reduce dead discards of no action or group or regional quotas would have more adverse impacts and be less effective in achieving Amendment 7 objectives to reduce dead discards and maximize fishing opportunity. The design of the IBQ management measures and other aspects of Amendment 7 minimize the significant adverse economic impacts, disruption of social patterns, and adverse cumulative impacts, to the extent practicable, relative to other methods analyzed while also meeting Amendment 7 objectives. For detailed information on NMFS' response, see the Classification section.

14. IBQ Eligibility

Comment 76: Commenters suggested modifications to the proposed method of defining which vessels are eligible to receive quota share (*i.e.*, "active" vessels, defined as those vessels that made at least one set using pelagic longline gear between 2006 and 2011, based on logbook data). Some stated that the criteria is too restrictive, and that

the criteria should instead be any vessel with a valid permit, while others believed the criteria is too lenient and results in an excessive number of vessels eligible to receive quota share. Some commenters suggested specific alternative criteria such as 50 sets within the previous 3 years.

Response: The definition of a set of vessels that are eligible to receive bluefin quota share is a very important aspect of the design of the IBQ Program because the definition sets the boundary of which entities are eligible for the privilege of being granted quota shares, and the number of eligible entities has a large influence on the amount of quota share each entity will receive. Regarding the comment that the criteria should be any vessel with a valid permit, the bluefin quota allocation method implemented by Amendment 7 is intended to limit the catch of, and provide accountability and incentives for pelagic longline vessels that are fishing and interacting with, bluefin tuna, and therefore only vessels that are likely to go fishing should be eligible for quota share. Additionally, if vessels that have a Longline category permit that do not typically fish were eligible to receive quota share, they could utilize the quota solely for economic gain by leasing the quota or influencing the leasing market. Further, the set of eligible vessels would be substantially larger (and each eligible vessel would receive substantially smaller proportion of the Longline category quota), and result in such small IBQ allocations that the IBQ Program would not function well. Relatively small quota shares make it likely that most vessels will have insufficient IBQ allocation and be dependent upon leased quota to account for bluefin caught.

Regarding the comment that the definition of "active," which did not include 2012 data, was too restrictive, the initial allocation implemented by this final rule reflects a definition of active that based upon the years 2006 through 2012, instead of through 2011.

Regarding the comment that the proposed definition of "active" is too lenient, the objectives of the preferred IBQ Program do not support further restricting the scope of eligible vessel to an arbitrary number of sets, and excluding vessels with a low level of fishing activity. Even vessels with low levels of fishing activity may need bluefin quota shares to account for bluefin catch. Instead, the objectives of the IBQ Program will be achieved using more flexible management tools, including incentives for vessels for avoid bluefin tuna and to fish with alternative gears.

Because the intent of the program is to specify a pool of eligible vessels that excludes inactive vessels, the IBQ Program utilizes the secondary criteria that the vessel must have had a valid permit as of August 21, 2013. Therefore, a vessel is required to meet the definition of "active," and also to have been issued a valid Longline category permit as of August 21, 2013 (the date of publication of the Amendment 7 proposed rule). This second criterion addresses the situation in which a vessel met the criteria of having made at least one pelagic longline set during the years from 2006 through 2012, but, subsequent to the time of the qualifying set(s), became inactive, as evidenced by a lapsed (non-renewed) Longline category permit (which must be renewed on an annual basis), or as evidenced by a vessel that has been removed from association with a particular vessel.

Comment 77: Commenters were concerned about the ability of new entrants to become active in the fishery, and some suggested that NMFS use an annual system to define eligible vessels, such as a minimum number of sets during the previous year. A commenter noted that businesses which supply new equipment to outfit pelagic longline vessels would be negatively impacted if new entrants are not able to enter the fishery.

Response: The ability for people who are currently not involved in the pelagic longline fishery to become participants in the fishery (new entrants) is an important consideration, which is a required consideration under Section 303A(c)(5)(C) of the MSA. The Amendment 7 IBQ Program will add a single additional prerequisite for participation in the pelagic longline fishery to the previously existing two prerequisites and associated monitoring and compliance requirements (*e.g.*, VMS). Prior to this Amendment, the two principal elements for participation in the fishery were a vessel and limited access permit. The IBQ Program implements a requirement for a vessel to have the minimum amount of bluefin quota allocation in order to fish with pelagic longline gear, as well as electronic monitoring requirements associated with the IBQ Program.

The Amendment 7 IBQ Program provides adequate opportunities for new entrants to the fishery, because there are multiple means by which a new entrant may satisfy the quota requirement. A person interested in participating in the fishery may purchase a permitted vessel with IBQ shares, and therefore be allocated quota annually (due to the IBQ share associated with the permit), or a person may purchase a permitted vessel without IBQ shares, but lease quota allocation from another permitted vessel. Under the IBQ Program, as in the past, participation in the pelagic longline fishery by new entrants will require substantial capital investment and potential new entrants will face costs which are similar to historical participants. However, the structure of the IBQ Program does not create any unreasonable barriers to new entry.

NMFS considered the merits of setting aside a specified amount of quota for new entrants, but found several negative aspects of such a provision. For example, providing quota to new entrants would essentially create a second quota allocation system, which would complicate the overall preferred IBQ Program by creating a separate class of vessels with different allocations. A quota set aside for new entrants would result in less quota available for other participants in the fishery, and rather than the market controlling the quota, there would be many policy decision to be made (*e.g.*, would the amount of set aside vary according to the number of new entrants, or be a fixed amount annually? Would the quota be divided equally among new entrants, be allocated in the minimum share amounts, or allocated based on fishing history). NMFS believes in simplifying the IBQ Program upon implementation where possible, in order to minimize regulatory burden and complexity. A system of rules regarding quota set aside would add additional complications to the IBQ Program. Therefore, NMFS determined that given the lack of information with which to base such restrictions, and the uncertainty whether there would be a pressing need for such restrictions, that additional restrictions or a quota set aside are not warranted. During the three year review of the IBQ Program NMFS will consider information from the fishery after implementation of the IBQ Program, and evaluate whether the IBQ Program provides adequate opportunities to new entrants. See FEIS at pages 70–71 for additional analyses.

As suggested by commenters, NMFS considered the concept of making an annual determination of which vessels are eligible to receive quota allocations based on a set of criteria (such as a certain number of longline sets during the previous year). NMFS found that there are negative aspects of such an annual system. If the vessels allocated quota shares vary on an annual basis, the IBQ Program would be more complex and difficult to administer; there would be greater uncertainty annually in the fishery; there would be

incentives to fish on an annual basis (due to criteria to fish in order to receive quota); and any value associated with a permit that would be derived from the associated IBQ share may be minimized if the IBQ share is only valid for a year. Although such a system could limit the number of years a vessel without quota share (*i.e.*, a new entrant) must lease quota, the negative aspects of this approach would be substantial. For example, in order to have an IBQ system that includes strong accountability, any quota 'debt' accrued must persist from one fishing year to the next. It would be difficult to implement persistent accountability if the vessels eligible for quota change on an annual basis.

Comment 78: A commenter suggested that NMFS should address latent permits by eliminating the ability to reactivate such permits.

Response: Neither Amendment 7 overall, nor the IBQ Program objectives include the reduction of latent effort. The likelihood of a meaningful increase in fishing effort is low because the number of vessels fishing has been fairly constant, and as stated in the response to comment number 77, although there are avenues for new entrants to the fishery, participation in the pelagic longline fishery by new entrants would require substantial capital investment. Although the number of Atlantic Tunas Longline category permits has averaged approximately 239 vessels (2006—2012), under Amendment 7 as finalized, only 135 vessels are eligible for initial bluefin quota shares. Furthermore, the risk associated with an increase in fishing effort (for either bluefin or the target stock of swordfish) is low, given the fact that Amendment 7 implements strict bluefin catch limits, one of the principal target stocks (swordfish) is rebuilt and another target stock (yellowfin tuna) is not overfished and overfishing is not occurring, and there has been unharvested swordfish quota on a regular basis.

Comment 79: A commenter suggested that NMFS use criteria such as dependence upon commercial fishing for determining which vessels are eligible to receive quota shares.

Response: NMFS generally considered dependence upon commercial fishing in establishing its approach for initial allocations. The amount of target species caught is a factor in the allocation formula. However, NMFS cannot at this time quantify fishery dependence in a uniform manner due to many issues relating to data availability and confidentiality. NMFS believes that the final rule, which takes into consideration best available information on current and historical harvests, participation, and other factors as well as public comment, ensures fair and equitable initial allocations.

Comment 80: Commenters stated that NMFS should associate IBQ with a permit and not a vessel.

Response: As explained in the FEIS, the use of historical data to evaluate whether a vessel meets certain criteria as part of the implementation of a limited access or catch share program (or a performance criteria) can be complex due to historical transfers of a limited access permit from one vessel to another, or changes in vessel owners. Over time, a single permit may be issued to multiple vessels, or a single vessel may have multiple owners. The IBQ Program as finalized uses the historical 'platform' upon which to base the quota share as the vessel history instead of the permit history for the following reasons: (1) Vessel history reflects current and historical participation in the fishery; (2) the regulations regarding the transfer of Atlantic Tunas Longline category permits do not address fishing history (*i.e.*, do not specify, when an Atlantic Tunas Longline category permit is transferred from one vessel to another, whether the fishing history also transfers; and (3) the structure of the databases in which the logbook data reside uses the vessel as a key organizing feature, and therefore the compilation of data associated with a particular vessel is simpler and less prone to error (it is more complex to compile data based on an individual permit history).

Although, as noted above, the basis for the quota shares is the fishing history associated with a vessel, the IBQ Program associates the share with a permit. In other words, for the purpose of vessel, permit, and quota transactions, quota shares under the IBQ Program will be associated with the Atlantic Tunas Longline category permit, even though the initial eligibility for the quota share was determined on the basis of a particular vessel history.

Comment 81: Many pelagic longline vessel owners expressed strong concerns that the amount of bluefin quota allocated to individual vessels would be inadequate to continue to fish, and that despite efforts to avoid bluefin, vessels would sooner or later encounter bluefin. The proposed allocations would make continuing fishing operations extremely difficult, because they would be forced to stop fishing, and therefore revenue would be cut off, but expenses would continue. Vessel owners stated that they would not be able to remain in business under such circumstances, and some estimated that a large vessel would need about 20 bluefin to account for the number of bluefin they catch, rather than the 2 to 13 fish they believe would be allocated under the IBQ system. Some highlighted the difference between the proposed IBQ allocations and the number of bluefin tuna that may be retained by a vessel with a General category commercial permit (up to 5 bluefin a trip), as justification for having larger individual quota allocations.

Response: Under the Amendment 7 IBQ Program, some vessels may not have enough quota share to continue to account for the same amount of bluefin they caught in the past. The FEIS analysis indicates that at a quota level of 137 mt, approximately 25 percent of vessels would need to lease additional bluefin quota in order to land their historical average amount of target species (if they do not change their behavior to reduce their historical rate of bluefin interactions). If no leasing of IBQ allocation were to occur, there could be a reduction in target species landings with an associated reduction in revenue of approximately $7,574,590 total, or $56,108 per vessel (135 vessels).

The precise impacts of the IBQ Program are difficult to predict due to the variability of bluefin distribution as well as the potential range of fishing behaviors (and business strategies) of vessels in response to the new regulations. In order to reduce the likelihood of interactions, vessel operators may have to pursue new strategies including communication with other pelagic longline operators regarding the known locations of bluefin, modifications to fishing time, location, and technique, as well as use of alternative gears. In conjunction with these strategies, leasing additional quota may be necessary. The IBQ eligibility criteria include the requirement that the relevant vessel have a permit as of August 21, 2013, which limits the number of eligible vessels, and therefore slightly increases the amount of quota share per vessel. Due to the difficulty of predicting the precise impacts of the IBQ Program, NMFS may, as the fishery adjusts to the new system, need to consider providing additional quota to the Longline category as a whole in order to increase the amount of quota available to eligible vessels via the IBQ Program, thereby balancing the need to have an operational fishery with the need to reduce bluefin bycatch in the fishery. The Amendment 7 IBQ Program includes a three-year formal review of the IBQ system, at which time NMFS will consider whether any structural changes to the program are necessary.

The pelagic longline fishery is an incidental bluefin fishery unlike the directed General category handgear fishery, and retention limits and other management measures are different. This final rule implements a regulatory system that would mitigate the effects of the different restrictions among the different permit categories.

Comment 82: Some commenters did not want the bluefin quota share formula to include a criterion that relies upon logbook data on bluefin catch, due to the concern that such data may be inaccurate. The quota share formula that was proposed includes a metric that results in a higher score (and contributing in the formula to a higher allocation) for vessels that had fewer interactions with bluefin (relative to the "designated species," *i.e.,* target catch). The commenters' specific concern was that if some vessels under-reported the amount of bluefin they caught in their logbook, such vessels may receive a higher score (and larger allocation) than vessels that had accurately reported higher numbers of bluefin catch. In other words, accurate reporters would be penalized relative to inaccurate reporters. Commenters noted that it is unfair to emphasize past bluefin catch in the quota allocation formula because in the past interactions with bluefin tuna were legal. Another commenter noted that past performance may not be a predictor of future performance.

Response: NMFS recognizes that some vessel operators may have under-reported the amount of bluefin tuna caught in their logbooks. NMFS conducted an analysis that compared logbook data to observer data to get an indication of how vessel reported logbook data compares with observer data, because observer data can serve as a useful validation tool. Compared to the observer data, the logbook data showed both over-reporting and under-reporting of bluefin tuna, with the average amount of under-reporting of bluefin discards of 28 percent at the aggregate level for all vessels. Individual vessel data varied substantially from being more than 90 percent accurate with observer data for that trip to more than 75 percent inaccurate compared to observer data for that trip. These data indicate a wide range in reporting accuracy at a vessel level. For additional information, see the Appendix in the FEIS (section 11.5).

Notwithstanding potential under-reporting by some vessels, logbook data are the most complete source of available data regarding vessel level interactions with bluefin tuna because 100 percent of pelagic longline vessels are required to submit logbook reports for every set. It is important to note that the relative number of bluefin interactions is only one component of the IBQ allocation formula, which also considers the amount of target catch, resulting in a higher score (and contributing to more allocation) for vessels with larger amounts of target catch ("designated species catch"). Amendment 7 includes a requirement for pelagic longline vessels to have operational electronic monitoring systems, which will enhance the accuracy of vessel-reported information.

Regarding the comment that it is unfair to use past interactions with bluefin as part of the allocation formula because in the past it was lawful to interact with bluefin tuna, pelagic longline regulations were designed to limit or reduce retention of bluefin tuna (*e.g.,* target catch requirements, weak hook requirements). Therefore, it is appropriate that the IBQ Program accrue some benefit in the form of IBQ allocation for vessels who may have fished in a manner that reduced interactions with, or avoided bluefin tuna, consistent with the regulations.

NMFS acknowledges that past performance may not be an indicator of future performance. One of the objectives of the bluefin IBQ Program is to provide incentives for future fishing behavior that will result in reduced rates of interactions between pelagic longline gear and bluefin. The principal incentive of the IBQ Program results from the fact that vessels are required to account for all bluefin tuna dead discards and landings (with IBQ allocation), and the prohibition of the use of pelagic longline gear if a vessel does not have any (or sufficient) IBQ allocation. The future fishing behaviors may include avoiding or minimizing setting pelagic longline gear in areas or during time periods where there are known interactions with bluefin tuna; increasing communication with other vessels fishing with pelagic longline gear; incorporating the use of alternative gears into a vessel's fishing strategy and business plan; 'test sets' to determine whether bluefin are present in an area; and pelagic longline gear modifications. In determining how to allocate bluefin quota, NMFS considered historical catches of both target species and bluefin tuna to consider both past performance and potential future needs.

Comment 83: Some commenters urged NMFS to allocate equal shares of bluefin quota to all eligible vessels, for multiple reasons. Equal shares would avoid the use of historical logbook data; would reduce potential negative feelings among permit holders with different amounts of allocation; and would provide higher quota allocations for some vessels than under the proposed method. Additionally, a commenter noted that it may not be necessary to consider the amount of target catch in the quota share formula (and provide more quota to vessels catching more target catch) because larger fishing operations are better equipped financially to adapt to new regulations. Another commenter supported basing the allocation on target species landings and fishing effort, because higher effort is likely to result in more bluefin catch.

Response: NMFS carefully considered allocating quota shares on an equal basis, but decided to implement the method as proposed, which incorporates two metrics of equal weight: Designated species landings and the ratio of bluefin to designated species landings. While an equal share formula has some positive attributes, the overall merits of the method being implemented are greater. It is important to take into consideration the diversity of the pelagic longline fleet, maximize the potential for the success of the IBQ Program, and provide incentives for vessels to avoid bluefin tuna.

NMFS analyzed the pelagic longline logbook data on target catch and bluefin interactions, and for most vessels, there is positive correlation between the amount of target catch, and the number of bluefin tuna interactions. In other words, for most vessels, the more swordfish, yellowfin tuna, or other target species a vessel catches, the more bluefin tuna it interacts with. However, a few vessels (those responsible for the largest number of interactions) interact with large numbers of bluefin, out of proportion with the amount of their target catch. Considering this historic pattern, basing one of the allocation formula elements on the amount of designated species landings would increase the likelihood that vessels would be allocated quota in relation to the amount of quota they may need to account for their catch of bluefin.

The second of the two elements (the ratio of bluefin interactions to designated species landings) is useful because it takes into consideration the fact that relatively few vessels (*i.e.,* about fifteen percent of the vessels) are responsible for about 80 percent of the interactions with bluefin tuna. Because this element of the allocation formula results in a lower allocation for vessels with a higher rate of historic interactions, it provides a strong incentive for such vessels to make changes in their fishing practices to reduce their number of bluefin interactions. Vessels with historically high catches of target species and a low

rate of interactions with bluefin receive a larger quota share than vessels with either higher rates of bluefin interactions or lower amounts of target species.

Comment 84: Some commenters were concerned that either hurricanes, the 2010 oil spill in the Gulf of Mexico, or specific regulations (such as a closed area) may have lowered the amount of catch a vessel had (during the 2006 through 2012 time period on which the IBQ share is based), and the resultant influence on the vessel's bluefin quota share.

Response: There are many factors that may determine the amount of a particular vessel's catch, including regulatory and environmental factors and factors unique to the vessel. As noted in the response to comment # 40 the Amendment 7 quota share formula is based upon a seven-year time period (2006 through 2012), which is long enough to reduce the influence of one-time events or short term environmental or regulatory conditions. Additionally, the quota share formula implemented by this final rule includes an additional year of data (2012), a longer duration than originally proposed.

Comment 85: Commenters suggested other methods for allocating quota shares such as auctioning the quota, and basing quota shares in relation to the number of hooks, or the number of longline sets in the previous year.

Response: NMFS considered an auction system, but decided that it would not result in distribution of limited access privilege shares in a way that met IBQ program objectives. Among other things, NMS wants to facilitate continued participation in the fishery by vessels that have made past investments in the fishery. An auction may not reflect recent or historical participation in the fishery and could increase uncertainty in fishery participation.

15. IBQ Leasing

Comment 86: Some commenters supported the provision that would allow pelagic longline vessels to lease quota allocation to and from one another, but prohibit permanent sale of quota shares. A commenter said that NMFS should only allow leasing to active vessels with intent to fish, and a commenter suggested that NMFS should ensure that a fully functioning quota trading infrastructure is in place before implementing the IBQ system.

Response: Quota leasing is an essential component of the IBQ Program because the amount of quota share a vessel has many not be aligned with the amount of quota they need, based on bluefin catch. Quota leasing provides the flexibility vessels may need to account for bluefin if they have insufficient quota, or obtain additional revenue if they are able to avoid bluefin and have quota they do not need. Only vessels that meet the eligibility criteria will be allocated quota shares; however, any vessel with a valid Atlantic Tunas Longline category permit may lease quota. Allowing quota to be leased to any permitted vessel enables vessels that are not allocated quota to become active in the fishery (*i.e.*, new entrants), but would not provide a lasting opportunity because leased quota would expire at the end of a year (and may not be carried over to the following year by an individual vessel). No sale of quota shares (in contrast to leasing of quota allocation) is allowed upon the implementation of Amendment 7. These quota restrictions provide a balanced approach to the types of transactions allowed, in order to provide flexibility to account for bluefin caught and enable participation of new entrants, but limit the potential for permanent shifts in ownership of quota shares and speculative activity by entities not active in the fishery. NMFS will conduct a full review of the IBQ Program after three years of operation, and may at that time consider allowing the permanent sale of quota shares or other modifications to the leasing program as warranted.

NMFS acknowledges that a functioning infrastructure is required to support a quota leasing system, and is implementing the system necessary to enable the leasing of IBQ shares and accounting of bluefin quota shares and allocations.

Comment 87: Commenters expressed concern about whether vessel owners would be willing to lease quota to other vessels, given the low amounts of quota allocated to vessels, and concern that the cost of leasing would be affordable, especially for owners of small vessels. Other commenters did not support leasing because access to additional quota could enable vessels to target bluefin.

Response: The analysis of the preferred IBQ Program in the FEIS indicates that at a quota of 137 mt, 25 percent of vessels would need to lease additional quota in order to land their historical average amount of designated species (if they do not change their behavior to reduce their historical rate of bluefin interactions). Therefore, a majority of vessels may have quota in excess of what is needed to account for their bluefin catch, and may have incentive to lease quota to other vessels. Notwithstanding the analysis, there is uncertainty regarding both the amount and price of quota that may be leased. A well-functioning leasing market, which enables quota to be leased by those who need it will be a key factor in whether the preferred IBQ Program functions as intended.

Comment 88: Some commenters did not support allowing pelagic longline vessels to lease quota from Purse Seine vessels. A commenter was concerned that the leasing program may disadvantage the Purse Seine vessels, and a commenter was concerned that Purse Seine businesses could consolidate or control quota. A commenter suggested that NMFS should set aside quota and lease it to pelagic longline vessels rather than allowing Purse Seine vessels to lease, and a commenter thought that the Purse Seine category should be allowed to lease to all other permit categories.

Response: Leasing quota must be confined to permit categories that are limited access due to the different characteristics of limited access and open access fisheries, and the complexities of a leasing program. Therefore, Amendment 7 limits quota leasing to the Longline and Purse Seine permit categories. The provision for Longline category vessels to lease quota from Purse Seine category participants provides an additional opportunity for pelagic longline vessels to lease quota that may not otherwise be present, and will increase the chances that there will be a well-functioning leasing market. As previously stated, a well-functioning leasing market, which enables quota to be leased by those who need it at an affordable price, will be a key factor in whether the preferred IBQ Program functions as intended.

With regard to the concern over Purse Seine control of quota, as noted in the Response to Comment 87, NMFS anticipates that only 25 percent of vessels would need to lease additional quota, and this final rule allows such leasing from either the Longline or Purse Seine category. Further, the Annual Reallocation measure implemented by this final rule will have the effect of reducing the amount of quota that is available to the Purse Seine category if such participants do not catch the majority of their quota during the previous year. The net effect of the Annual Reallocation measure on the IBQ leasing program should be to reduce the amount of quota available for leasing to the Longline category, or leaving less quota available to the Purse Seine category with which to consolidate or otherwise influence the leasing market (by holding rather than leasing quota). However, the IBQ leasing measure will not disadvantage Purse

Seine participants due to its interaction with the Annual Reallocation measure. The amount of quota allocated to the Purse Seine category participants will depend upon the level of bluefin landings and dead discards during the previous year, but will not take into consideration whether or not unused Purse Seine quota (that is not used to account for catch) is leased.

Regarding the comment that NMFS should be directly involved in the quota leasing market, NMFS did not analyze an alternative that would give a central role in the leasing market to NMFS. Although NMFS could indirectly influence the quota leasing market through quota adjustments, direct involvement in the quota leasing system would create many administrative concerns and is not preferred at this time. For example, if NMFS were a broker of IBQ leases, the leasing market would be more complicated, might function more slowly, and would add additional burden and costs to NMFS' support and oversight of the IBQ system.

16. Measures Associated With the IBQ Program

Comment 89: Commenters supported elimination of the target catch requirements and mandatory retention of legal-sized bluefin that are dead at haul-back. Some commenters suggested that NMFS require retention of all dead bluefin regardless of size in order to address the problem of undersized juvenile bluefin discards.

Response: Under Amendment 7 measures the target catch requirement (a strict bluefin retention limit based on the amount of target catch retained) will no longer be needed to restrict bluefin retention because catch will be limited by the IBQ Program restrictions. Dead discards are an important consideration with respect to the evaluation of minimum size restrictions, but are not the only consideration. The current bluefin size restriction for pelagic longline vessels reflects ICCAT recommendations, as well as consideration of other factors, including dead discards. In general, size restrictions have been instituted to protect the overall health and breeding viability of the species, as well as to distribute fishing opportunities among both recreational and commercial fishermen, year-round.

Retention of all bluefin, regardless of size, would conflict with ICCAT recommendations in effect. The current ICCAT recommendation prohibits the harvest of Western bluefin measuring less than 115 cm (the equivalent of 27 inches). It also limits the amount of BFT measuring 27 to less than 47 inches, to 10 percent of the total U.S. quota.

Reduction in minimum size to 47 or 59 inches for commercial categories was an alternative that was considered, but not further analyzed in the FEIS. As new information from the fishery becomes available in the future, or if new scientific information or ICCAT recommendations warrant, NMFS may consider modifications to the bluefin size restrictions in the future.

Comment 90: A commenter stated that NMFS should not require retention of bluefin in the Gulf of Mexico because the bluefin are too big to bring on board.

Response: Most vessels that fish with pelagic longline gear target large pelagic species and are capable of boarding very large fish. Approximately 82 percent of the vessels participating in the pelagic longline fishery are greater than 40 feet in length overall and either can already handle large fish, or should be able to modify their equipment to be able to handle large fish.

17. Closure of the Pelagic Longline Fishery

Comment 91: Comments on NMFS' authority to close the pelagic longline fishery ranged from those who support closing the fishery in conjunction with a Longline category quota allocation of 8.1 percent, to those who said that the fishery should be closed only if there is unusually high catch of bluefin (and not when the quota is reached). Commenters noted the potential impacts of closures early in the year on the pelagic longline fishery, supporting business, consumers of the fish products, and future ICCAT recommendations.

Response: A closure of the pelagic longline fishery may have adverse direct and secondary economic impacts, the severity of which would depend upon how early in the year the closure occurred. Under the IBQ Program implemented by this final rule, in which individual vessels may not fish with pelagic longline gear unless they have quota, it is not likely that NMFS will be required to close the fishery as a whole. However, individual vessels will be prohibited from fishing if they have not accounted for their catch or do not have the required minimum amount of quota allocation to depart on a pelagic longline trip.

If, based on the best available data, NMFS estimates that the total amount of dead discards and landings are projected to reach, have reached, or exceed the Longline category quota, NMFS may prohibit fishing with pelagic longline gear. Similarly, if there is high uncertainty regarding the estimated or documented levels of bluefin catch, NMFS may close the fishery to prevent overharvest of the Longline category quota, or prevent further discarding of bluefin.

As described in many of the responses to comments, NMFS designed Amendment 7 management measures not only to reduce dead discards and ensure accountability, but also to provide flexibility for pelagic longline vessels fishing under the IBQ Program restrictions, and flexibility in the quota system as a whole, to balance the needs of the pelagic longline fishery with the needs of the other quota categories.

18. VMS Requirements

Comment 92: NMFS received comments on proposed VMS requirements for the Purse Seine and Longline categories (preferred Alternative D1b), expressing both support and opposition. Several commenters were concerned about the functionality of certain VMS models, particularly those used in the mid-Atlantic.

Response: NMFS recently published a proposed rule regarding type-approval of VMS units to ensure vendors and associated mobile communications providers are meeting fishing industry needs (79 FR 53386; September 9, 2014). Specifically, the rule proposed NMFS procedures for EMTU/MTU and MCS type approval, type-approval renewal, and revocation; revision of latency standards; and methods to ensure compliance with type approval standards. By codifying requirements and processes, NMFS will be better able to ensure vendor compliance with the VMS type-approval requirements.

19. Electronic Monitoring Requirements

Comment 93: NMFS received comments that supported electronic monitoring (*i.e.*, video camera and gear sensors), while other comments either expressed concern or opposed it. Comments supporting electronic monitoring indicated that it is not cost prohibitive, that it would allow NMFS to ground-truth other data, and that it supports accountability and enforcement. Those opposed to electronic monitoring said that it is cost prohibitive, an invasion of privacy, and is redundant with existing information. Some comments expressed concern about the functionality of a system, considering the issues experienced with some VMS functionality, and the ability to identify the difference between bigeye and bluefin tuna using video cameras. Implementation using a pilot scale was suggested, which would allow time to set up a functioning

infrastructure. Expansion of electronic monitoring to other categories with dead discards was also suggested.

Response: Amendment 7 establishes requirements to monitor dead discards for all commercial user categories to better achieve the ICCAT requirement to account for sources of bluefin tuna fishing mortality and to better monitor the fishery for bluefin accounting purposes domestically. This final rule implements a requirement for Purse Seine category vessels to report dead discards via VMS, and for hand gear fisheries (General, Harpoon, and Charter/headboat categories) to report using an automated catch reporting system via the internet or phone. As described above, for all vessels issued an Atlantic Tunas Longline permit that fish with pelagic longline gear, vessel owners (or their representatives) must coordinate with the NMFS-approved contractor to install and test electronic monitoring equipment, and the contractor will then provide certification that the equipment has been properly installed. Longline category vessels are required maintain an electronic monitoring system (including video recording and data sensors) that will record all catch and relevant data regarding pelagic longline gear deployment and retrieval. The purpose of video monitoring for the Longline category is to provide a cost effective and reliable source of information to verify the accuracy of bluefin tuna interactions reported via VMS and logbooks. In many instances, the FEIS analysis found discrepancies between logbook data and observer data (considered to be highly accurate) reported for the same trip. The Amendment 7 electronic monitoring requirement supports accurate catch data and bluefin tuna IBQ management measures, by providing a means to verify the accuracy of the counts and identification of bluefin reported by the vessel operator. In light of public comments expressing concern about ensuring the functionality of electronic monitoring systems and the costs of such systems, this final rule relieves certain purchase and installation requirements that were set out in the proposed rule. Rather than requiring vessel owners to buy and install equipment and make decisions about equipment specifications and functionality, this final rule instead requires the vessel owners to obtain certification from a NMFS-approved contractor stating that the contractor has properly installed and verified the functionality of the electronic monitoring system in accordance with more detailed equipment and system requirements provided in the final rule. As set out in the proposed rule, vessel owners would have been responsible for the costs of the equipment and for installation for the electronic monitoring systems, which are estimated to be approximately $19,175 for purchase and installation per vessel as well as variable costs of approximately $225 per trip for data retrieval, fishing activity interpretation, and catch data interpretation. These costs are lower than the cost of increased observer coverage. The Southeast Fisheries Science Center estimates that observer deployment costs approximately $1,075 per sea day, which equates to approximately $9,675 per average nine-day pelagic longline trip.

Video monitoring is currently used in several fisheries, and NMFS has funded over 30 pilot projects to further research the use and effectiveness of electronic monitoring, including research on the accuracy of finfish identification. These studies provide evidence that properly deployed and maintained video monitoring camera systems can provide effective data for accurately identifying large pelagic species. NMFS acknowledges that identification of closely related species such as bluefin and bigeye tuna can be challenging, particularly with smaller fish. The size of tunas that are caught on pelagic longline vessels tend to be larger due to the size of the hooks used in commercial fisheries. To ensure accurate identification of all species, the NMFS-approved contractor will place cameras to ensure a clear view of the gear hauling location. NMFS white papers on electronic monitoring are available at the following Web address: *http://www.nmfs.noaa.gov/sfa/reg_svcs/Councils/ccc_2013/K_NMFS_EM_WhitePapers.pdf.* NMFS will take into account the time required for owners to outfit their vessels with newly required equipment when establishing the timetable for requirement vessels to have fully operational electronic monitoring systems.

20. Automated Catch Reporting

Comment 94: Several commenters supported electronic catch reporting for the General, Harpoon, and Charter/headboat categories, and one commenter suggested that electronic catch reporting be required for all categories. Two commenters questioned the effectiveness of this reporting methodology. One suggested that a catch card system be used, and another requested additional technical information on the reporting methodology including the data to be collected and techniques for verification.

Response: Amendment 7 implements mandatory dead discard reporting for General, Harpoon, and Charter/Headboat category vessels. The reporting system will be an extension of the web-based landings reporting system, which must currently be used by fishermen in the Angling category to submit mandatory bluefin tuna landings reports. Although catch card systems have been shown to provide a more accurate accounting for landings in some geographic areas (*i.e.,* Maryland and North Carolina), they are more costly to employ and are difficult to implement in regions with a large number of private docks. Further, catch cards may not be as effective in accounting for discarded fish that are not landed. The data fields NMFS will collect through a required form include information such as, the trip start and end date, trip departure and end time, port and state of departure and landing, fishing technique, bait type, hook type, approximate time hooked, approximate fight time, species, fish size, vessel name, registration number, permit holder's name, Atlantic HMS permit number, type of trip, and tournament name (if applicable).

21. Expand the Scope of the Large Pelagics Survey

Comment 95: One commenter opposed taking no action on the Large Pelagics Survey (preferred Alternative D6a), stating that a change is needed from the status quo.

Response: NMFS analyzed expanding the Large Pelagics Survey temporally to include the months of May, November, and December, and geographically to include the states south of Virginia, as a means to collect more data about the recreational bluefin tuna fishery, and further refine recreational bluefin tuna landings estimates. Although the expansion of the survey would likely provide some landings estimates in time periods and geographic regions that are currently not covered by the survey, the likelihood of the survey intercepting activity in what is considered to be a "rare event" fishery at the edges of its geographic and temporal range is low, and the resultant catch estimates would likely be imprecise. NMFS estimated the economic cost of these data is approximately $165,000 per year. Thus, the benefits of the data may not outweigh the cost. The NMFS Office of Science and Technology may consider future studies to enhance recreational bluefin tuna landings estimates under the Marine Recreational Information

Program (*https://www.st.nmfs.noaa.gov/recreational-fisheries/index*).

22. Deployment of Observers

Comment 96: Several commenters supported the expansion of observer coverage for the Longline category, suggesting increases in coverage up to 100%. Another commenter suggested implementing industry-funded observer coverage. A commenter thought that NMFS should use observer data to monitor Longline category catch limits. Another commenter was concerned that observers might not be available to cover pelagic longline vessel trips into closed areas.

Response: This Amendment 7 final rule makes no changes to current observer coverage requirements for commercial Atlantic tunas vessels. Catch data collected by observers is considered to be highly accurate and current levels of observer coverage are adequate to produce statistically sound estimates of bluefin catches, but the high cost of observer coverage can be prohibitive (see response to comment 93). Thus, NMFS is not implementing a requirement for industry to fund observers or requiring an increase in observer coverage at this time or exploring further the possibility of industry-funded observers. Under Amendment 7 measures, NMFS is requiring Longline category vessels to use electronic monitoring systems (*i.e.*, video cameras and gear sensors) that will provide data to corroborate logbook reports and serve as a source of high quality data for use in monitoring Longline category catch. Amendment 7 does not include a measure that will allow access to previously closed areas, or require observer coverage for access to the Cape Hatteras GRA at this time.

23. General Category Subquota Management

Comment 97: NMFS received a variety of comments on the proposed measure to allow transfer of General category quota from one or more the time periods that follow the January time-period to the January or other preceding sub-quota time periods. The comments included that NMFS should allow more flexibility in the General category; NMFS should provide more quota to the January subquota period; NMFS should provide half the subquota to the first half of the year and half the subquota to the second half of the year; NMFS should give a share of the subquota to North Carolina to fish from January to June, as the current 5.5 percent of quota in January to June is caught in less than 14 days. The North Carolina Department of Environment and Natural Resources commented that NMFS should shift subquota for December to the January subquota period.

Response: Under the quota regulations, the General category quota is divided into subquotas for each time period versus specific geographic areas. Under the measures implemented by this final rule, NMFS can transfer quota from one subquota period to another, earlier in the calendar year. For example, subquota could be transferred from the December subquota to the January subquota for that same calendar year. Although NMFS could transfer quota from one subquota period to any other subquota period, based on public comment NMFS will prioritize transfer from the winter fishery that occurs in December to the winter fishery that occurs in January within a fishing year (*e.g.*, prioritize transfer of quota from December in Year A to January of Year A).

Comment 98: NMFS received a comment that NMFS should consider the fact that transfers will have the effect of moving quota from the traditional Northeast fishery to the mid-Atlantic and South; Alternative E1c will negatively impact Northeast fishermen. One commenter stated that NMFS should take no action on General category subquotas (Alternative E1a). Another commenter stated that NMFS should establish 12 equal monthly subquotas (Alternative E1b).

Response: NMFS acknowledges the concerns that quota distribution may impact historical geographic distribution and considered these factors in selecting which alternative to finalize. Note that current regulations do not preclude General category and HMS Charter/Headboat category vessels from traveling from one area to another. In fact, many vessels travel from the northeast and mid-Atlantic states to participate in the winter fishery that occurs largely off North Carolina. NMFS will continue to consider the regulatory determination criteria regarding inseason quota transfers in an attempt to balance reasonable opportunity to harvest quota with other considerations, including variations in bluefin distribution and availability, among others. The measure implemented by Amendment 7 will provide additional fishing opportunities within the General category quota while acknowledging the traditional fishery. Prioritizing transfer from one winter fishery subquota to another will minimize negative impacts of transferring quota that is traditionally used by Northeast fishermen in the summer and fall months. Division of the quota equally by month was not preferred because the potential negative social and economic impacts outweigh the positive impacts. The negative aspects of this alternative include the potential for gear conflicts and derby fishing, as well as the potential for the historical geographic distribution of the fishery to be dramatically altered. Although this alternative would provide some stability to the fishery by establishing a known amount of quota that would be available at the first of each month, if catch rates are high in the early portion of the month, these quotas could be harvested rapidly and may lead to derby style fisheries on the first of each month. Additionally, if catch rates are high and subquotas are reached quickly, NMFS may need to institute multiple closures notices throughout the year.

24. Harpoon Category Retention Limit

Comment 99: NMFS received a comment supporting increased flexibility for the Harpoon category.

Response: In 2011, NMFS increased the incidental retention limit of large medium bluefin after considering requests from Harpoon category participants to eliminate certain regulations perceived as unnecessarily restrictive (76 FR 74003, November 30, 2011). Since then, NMFS has received requests from Harpoon category participants to instead manage the large medium size class retention limit over a range, similar to how NMFS manages the daily General category retention limit, for increased flexibility in setting the limit based on consideration of applicable factors (*i.e.*, the regulatory determination criteria applicable to retention limit adjustments). Under the Amendment 7 measure implemented by this final rule, NMFS will have the ability to increase or decrease the daily retention limit of large medium bluefin within a range of two to four fish, based on the former and current daily retention limits. This measure enhances NMFS' ability to more precisely manage the landing rate of large medium bluefin by the Harpoon category, thereby optimizing opportunities while preventing landings from exceeding the subquota.

25. Angling Category Trophy Sub-Quota

Comment 100: NMFS received comments on allocating a portion of the trophy south subquota to the Gulf of Mexico (preferred Alternative E3b), including that NMFS should not reduce the trophy south subquota; the reduction would negatively affect charter captains in the mid-Atlantic and South Atlantic areas; and that the change in allocation would increase

landings of spawning bluefin in the Gulf of Mexico. Other commenters stated that NMFS should change the division of subquota, but not split the subquota equally between the southern area and the Gulf of Mexico; and that NMFS should allocate 10% or 17% of the trophy south subquota to the Gulf of Mexico. The Mid-Atlantic Fishery Management Council commented that NMFS should take no action on this issue (Alternative E3a) and that Alternative E3b would lead to an unreasonably small recreational bluefin trophy quota for the northern region.

Response: Under the Amendment 7 measure implemented by this final rule, the trophy subquota will be divided to provide 33% each to the northern area, the southern area outside the Gulf of Mexico, and the Gulf of Mexico. The objective of this measure is to provide a reasonable fishing opportunity for recreational vessels in the Atlantic and Gulf of Mexico, reduce discards, and account for incidentally caught bluefin. A separate subquota allocation for the Gulf of Mexico will improve the equity of the trophy-sized fish allocation by increasing the likelihood that there will be trophy quota available to account for incidental catch of bluefin in that area (while still providing incentives not to target bluefin). An equal 33% division among the three areas provides the most equitable trophy subquota allocation. This measure will not affect the amount of Trophy subquota available to the northern area.

Comment 101: One commenter stated that NMFS should eliminate the trophy category because it is not possible to monitor the catch.

Response: Currently, NMFS monitors trophy bluefin along with all other sizes of recreationally-caught bluefin through the Large Pelagics Survey, the Automated Catch Reporting System, and state catch card programs (for landings in Maryland and North Carolina). NMFS considers the combined methods of monitoring trophy bluefin catch to be adequate such that closure of the trophy bluefin fishery is not warranted at this time.

26. Purse Seine Category Start Date

Comment 102: NMFS received comments on changing the start date of the Purse Seine category to June 1 (preferred Alternative E4b), including that NMFS should change the Purse Seine category start date to June 1 as fish have tended to be available on the fishing grounds earlier than July 15 in recent years; NMFS should give the Purse Seine category the same start date as other commercial categories; and NMFS should give the Purse Seine category a start date of June 15 if there is a need to compromise with other categories. Subsequent to the date the FEIS was published NMFS received many comments expressing concerns regarding the proposed June 1 start date. Specifically, commenters feared that the June 1 start date would flood the June and early July market for bluefin, depress the price, and cause a severe social and economic impact to small boat handgear fishermen. Other concerns were the increased potential for gear conflicts, and a concern that fish behavior would change and the fish may be dispersed by relatively early Purse Seine fishing activity .

Response: We had proposed changing the default start date of the Purse Seine category fishery from July 15 to June 1, with the ability to delay the season start date from June 1 to no later than August 15, to help optimize fishing opportunity for Purse Seine category vessels, given the other measures affecting the Purse Seine category implemented by this Amendment 7 final rule. Based on public comments, however, in the final rule NMFS is removing the default start date of the Purse Seine fishery, and instead will establish by action (via **Federal Register** notice) the start date of the fishery, during a range from June 1 through July 15.

Comment 103: One commenter stated that NMFS should not change the start date because the average value of bluefin is lower in June.

Response: NMFS has received comments over recent years from commercial bluefin fishery participants and dealers that fish quality tends to be lower earlier in the year, with lower associated price per pound. However, providing purse seine operators the ability to start fishing on June 1 provides additional flexibility for deciding when to make sets. These decisions are based largely on the availability of bluefin and the size composition of schools. To the extent that this flexibility could allow the harvest of the Purse Seine category quota while minimizing dead discards, the management measure meets the Amendment 7 objectives.

27. Permit Category Changes

Comment 104: One commenter did not support modifying the rules regarding permit category changes (preferred Alternative E5b), stating that the 10-day restriction is sufficient and changing the restriction would give people the chance to abuse the rules and fish in multiple categories.

Response: Based on feedback NMFS has received over a number of years from vessel owners affected by the 10-day restriction, NMFS believes that limiting the time period during which a vessel may change permit categories to 10 calendar days is overly restrictive, and may not allow the flexibility to resolve the problems of a permit issued by mistake. This measure, which will allow permit category changes within 45 days of permit issuance, provided the vessel has not fished (as verified via landings data), will achieve a better balance of allowing flexibility for vessel owners, while still preventing fishing in more than one permit category during a fishing year.

28. North Atlantic Albacore Tuna Quota

Comment 105: NMFS received a comment on implementing a U.S. North Atlantic albacore tuna quota (preferred Alternative E6b), stating that NMFS should be cautious with carrying forward multiple years of underharvest given the status of the northern albacore stock.

Response: NMFS acknowledges the concern about carrying forward large amounts of unused quota (often referred to as "stockpiling"). The ICCAT Contracting Parties have discussed that issue in recent years, particularly regarding the potentially large adjusted quotas for the major harvesters of northern albacore (specifically the European Union, with 77 percent of the northern albacore quota). The current ICCAT northern albacore recommendation (Recommendation 13–05; Supplemental Recommendation by ICCAT Concerning the North Atlantic Albacore Rebuilding Program) allows for 25% of a country's quota to be carried forward, if unused, and to be used within the two years following the subject year of catch. Because the U.S. quota represents less than 2 percent of the northern albacore TAC, and the most the adjusted quota could be under the current recommendation is 658.75 mt (125% of the 527-mt quota), there is little risk of stock harm. Regarding stock status, based on the 2013 northern albacore stock assessment and the domestic thresholds for minimum stock size (*i.e.*, the MSST) and maximum fishing mortality (*i.e.*, the MFMT), the stock is not overfished (*i.e.*, rebuilding), with overfishing not occurring. Carry-forward of unused quota would be limited to 25 percent of the initial quota, consistent with the current ICCAT recommendation.

29. Other Concerns

Comment 106: Commenters expressed concerns and made suggestions about a variety of topics related to the management of bluefin tuna or

associated HMS fisheries, but not specific to one of the proposed management measures or alternatives analyzed. The underlying science was a concern, and commenters suggested that NMFS should reevaluate the methods and timing of stock assessments; should revise the method of dead discard estimates; should increase overall research; and should increase communication between scientists and managers. Other commenters questioned why some permit categories are open access and some are limited access; suggested that NMFS open the Florida East Closure or the DeSoto Canyon Closure; should modify the weak hook regulations; suggested that NMFS ban longlines; NMFS only cares about the commercial interests; the management of bluefin is unfair because the U.S. regulations are more restrictive than in other countries; and, observers should be required in all commercial categories. Commenters stated that greenstick gear and rod and reel cannot replace pelagic longline in regard to the amount of fish landed by the gears; expressed concern that pelagic longline vessels in the Gulf of Mexico are generally too large to effectively fish with greenstick gear; concern was expressed that tuna landed with greenstick gear are low in quality, bring a lower price than longline-caught tuna; and that greenstick-caught tuna are not as acceptable in domestic or international markets. Commenters stated that other fishing practices should be used to reduce discards of fish including the use of shorter longlines, thinner monofilament on mainlines or gangions, increased floatation on mainlines, using mackerel for bait, and/or reducing soak time. A commentor stated that dehooking devices should be used to promote post-release survival of organisms.

Response: Although the comments are directly or indirectly related to the management of bluefin tuna, Amendment 7 considered (*i.e.*, analyzed and proposed) a discrete range of management measures. In adopting any final measures, NMFS is restricted in scope to management measures closely related to those proposed, and within the range of impacts analyzed in the DEIS. Therefore, many of the management measures or ideas suggested by the public, regardless of potential merits, were not included in the FEIS (for analysis and consideration), but would have to be considered in the context of a future management action. In addition to the formal regulatory process of proposed and final rulemaking, NMFS considers issues, discusses management ideas, and obtains public input in the context of the HMS Advisory Panel, which typically convenes twice a year at meetings that are open to the public. Possession and use of dehooking devices are currently required onboard pelagic longline vessels.

Comment 107: Commenters requested that NMFS modify the Purse Seine landings tolerance regulations that restrict the amount of large medium bluefin tuna relative to the amount of giant bluefin that can be landed. Specifically, they recommended that the tolerance be increased or eliminated in order to reduce dead discards. The current tolerance is no more than 15 percent of the total amount of giant bluefin (81 inches or greater) per year, by weight. However, as the total number of future trips, and catch, is unknown, the vessel owner/operators have been self-imposing this regulation on a trip level basis to ensure compliance at the end of the year.

Response: Although there has been past interest in altering this limit, the issue was raised in the comments on the 2006 Consolidated HMS FMP—this alternative was not considered further in the DEIS because there was very little data available to determine whether such as change might be warranted and the impacts of such a change given recent low catch/landings from the Purse Seine category. Data are now available on dead discards by size relative to retained catch for the Purse Seine category from the 2013 fishing year. NMFS believes that additional analysis about the potential benefits of altering the limit, both by reducing dead discards and improving the Purse Seine category's opportunity to harvest its quota, is warranted and beneficial to the stock and the fishery. Additional data are needed to conduct such analyses and to make fishery management decisions. NMFS may take future action in a subsequent rulemaking, if warranted, but such changes are not supportable at this time in this Amendment.

Changes From the Proposed Rule (78 FR 52032; August 21, 2013)

This section explains the changes in the regulatory text from the proposed rule to the final rule. Some changes were made in response to public comment, others clarify text for the final rule, and others provide more detail or specifications about the administration of the measures as proposed. The changes from the proposed rule text in the final rule are as follows:

IBQ Shares and Allocation Administration of the IBQ Program

Program Requirements and Scope (635.15): The IBQ allocation shares in the proposed rule were based on eligibility criteria and a quota share formula based on the time period from 2006 through 2011. The final rule includes an additional year of data (2012) that became available after publication of the proposed rule. NMFS stated in the DEIS that analyses would be updated where 2012 data became available for the FEIS, and public comment on the DEIS also reflected the need to update these analyses. The range of seven years provides a reasonable representation of historical fishing activity, including recent years. Seven years is long enough to prevent short-term circumstances from disproportionately impacting a vessel, but recent enough to reflect current fishery participation. By including 2012 data, nine more vessels meet the criteria to be deemed "active" for the purposes of IBQ eligibility.

The final rule also clarifies that there are two aspects to how the pool of eligible vessels is determined: A vessel must meet the definition of "active," and also must have been issued a valid Atlantic Tunas Longline category permit as of August 21, 2013 (the date of the proposed rule). "Active" vessels are those vessels that made at least one set using pelagic longline gear from 2006 through 2012 based on pelagic longline logbook data. At the DEIS stage, this criterion was based on logbook data for 2006–2011. Logbook data for 2012 data became available after publication of the DEIS, however. NMFS stated in the DEIS that analyses would be updated where 2012 data became available for the FEIS, and public comment on the DEIS also reflected the need to update these analyses. Thus, the final action uses 2006 to 2012 data. In addition to being "active," vessels must have a valid Atlantic Tunas Longline category permit. NMFS clarifies here that, for purposes of IBQ share eligibility, a "valid Atlantic Tunas Longline category permit" is one held as of the date the proposed rule was published, which was August 21, 2013.

In response to public comment that NMFS should provide additional administrative details about the appeals process, the final rule includes an initial administrative step regarding the appeals of initial quota shares, and specifies the documentation that may be used to appeal. In the proposed rule appeals were to be made directly to the NMFS National Appeal Office. The final rule includes a provision that vessel

owners may first submit a written request for review of initial IBQ shares to the HMS Management Division within 90 days of publication of this final rule. The written request to adjust their initial quota share, must indicate the reason for the requested change and provide supporting documentation (see below). HMS Management Division staff will evaluate all requests and accompanying documentation, then notify the requestor by letter signed by the HMS Division Chief, of NMFS' decision to approve or deny the request for adjustment. If the request is approved, NMFS will issue the appropriate adjustment to the initial quota share and resultant allocation by letter, identifying any alteration to the quota share percentage and associated allocation. If the HMS Management Division denies the request, the permit holder may appeal that decision within 90 days of receipt of the notice of denial by submitting a written petition of appeal to the NMFS National Appeals Office in accordance with regulations at 15 CFR part 906. This final rule specifies what will be considered "documented legal landings" in support of an appeal of a quota share determination because public comment indicated that additional guidance on this issue was necessary. Specifically, for the purposes of appeals, NMFS considers "documented legal landings," to be official NMFS logbook records or weighout slips for landings between January 1, 2006, through December 31, 2012, that were submitted to NMFS prior to March 2, 2013 (60 days after the cutoff date for eligible landings), and verifiable sales slips, receipts from registered dealers, state landings records, and permit records. Landings data are required to be submitted within 7 days of landing under the applicable regulations. Recognizing that somewhat-late reporting could have occurred for a variety of reasons, however, NMFS is clarifying that it will consider "documented" landings for appeals purposes to be those reported within 60 days to include those that were slightly late.

This final rule includes a provision that when NMFS determines that all requests for IBQ share adjustments and appeals have been resolved, NMFS may adjust all IBQ share percentages to accommodate permitted holders that have been deemed eligible or provided an increased IBQ quota share through the appeals process. NMFS will notify IBQ participants in writing with any resulting changes in their IBQ quota shares stemming from approved appeals.

This rule provides additional details about and clarifies requirements regarding the IBQ System used to track IBQ shares and resultant allocation, usage and balances of IBQ allocation, and conduct leasing of IBQ allocation. The proposed rule stated that NMFS would implement an Internet based system to track leases of IBQ allocation, but did not specifically note that the IBQ system would also be used to track IBQ shares, or provide details regarding the associated requirements for IBQ Program participants to create an account. Therefore, the following administrative details are being added:

Eligible Atlantic Tunas Longline category permit holders must have an IBQ System accounts in order to be issued IBQ shares and resultant allocation or lease IBQ. NMFS will set up these accounts for initial IBQ System accounts for eligible IBQ participants. Similarly, a permitted dealer purchasing bluefin tuna caught from a vessel fishing with pelagic longline gear must also have an IBQ System account and access the system online to provide landings data at the end of pelagic longline trips where bluefin were purchased or received (*i.e.,* data on the amount of bluefin landings and dead discards). NMFS will also set up accounts for those dealers who have historically purchased bluefin from pelagic longline vessels.

This final rule provides additional details for two aspects of IBQ accounting as follows: If an Atlantic Tunas Longline category permit holder participating in the IBQ Program has a quota debt that remains unresolved at the time of such permits sale or transfer, then that quota debt remains associated with that permit. This is consistent with the IBQ share remaining linked to the eligible permit itself and further refines how IBQ shares, resultant allocation, and quota debt will be managed to ensure accountability under the IBQ Program, even if permits are sold or transferred. Secondly, for those permit holders who own or operate multiple vessels with IBQ allocation, if, at the end of the year, one or more of the vessels has an outstanding quota debt, yet the other vessels still have IBQ allocation, the IBQ system will apply any remaining unused regional IBQ allocation associated with the other vessels to account for the quota debt of the other. This functionality has been added since the proposed rule because unused IBQ allocation does not carry over from one year to the next, but quota debt does. This functionality facilitates the resolution of quota debt, and reduces the possibility that a permit holder of multiple vessels may inadvertently fail to manually resolve an existing quota debt with IBQ allocation associated with one of their other vessels at the end of the year.

To ensure that all IBQ Program activity can be accounted for on an annual basis, the IBQ System will prohibit any and all online transactions, such as catch transactions and IBQ allocation leases, between December 31 at 6 p.m. and January 1 at 2 p.m. (Eastern Time). IBQ System functions will resume after January 1 at 2 p.m. the following year. No IBQ System transactions will be allowed or available during this 20 hour time period to provide NMFS time to reconcile IBQ accounts, adjust IBQ allocation for the upcoming year, etc. If a vessel with the required minimal IBQ allocation departs on a trip prior to the end of a calendar year and returns to port after the start of the following year, any bluefin landings or dead discards will be counted against the new year's allocation.

This final rule provides additional administrative detail and guidance about aspects of the annual process IBQ allocation. Annual IBQ allocations to eligible permit holders will occur January 1. For those permit holders awarded IBQ shares but are not eligible to receive the resultant IBQ allocation as of December 31 because they have begun—but not completed—the process of permit renewal or permit transfer, IBQ allocations will be made when the transaction regarding permit renewal and/or transfer has been completed. Subsequent to the annual IBQ allocation, additional IBQ allocation may be made available to eligible permit holders as a result of a U.S. quota increase or potential in-season quota transfer from the Reserve category, pursuant to determination criteria associated with quota adjustments. Subsequent to the annual IBQ allocation, IBQ allocation may be reduced as a result of a decrease in the U.S. bluefin quota, or to account for accrued quota debt.

Gulf of Mexico Gear Restricted Area

This final rule modifies the definition of the Gulf of Mexico GRA at § 635.2 from the definition in the proposed rule. NMFS proposed a Gulf of Mexico GRA for the months of April and May, during which time vessels would be prohibited from fishing with pelagic longline gear in the defined area. Based on public comment, NMFS re-analyzed additional spatial and temporal configurations of GRAs in the Gulf of Mexico, and instead is implementing a GRA during the same months (April and May), but of a different configuration than proposed. However, the GRA remains within the

range of areas considered and analyzed in the FEIS and the range of alternatives. The total area of the Spring Gulf of Mexico GRAs being implemented is larger than that of the proposed Small Gulf of Mexico GRA. This final rule implements a GRA comprised of two separate areas: An area based on that proposed, but extended to the east, and reduced in size on the western and northern borders, and a second area that is adjacent to the southern border of the Desoto Canyon Closed Area's northwestern 'block.' A larger geographic area in the Gulf of Mexico that includes areas to the east of what was proposed is required to effectively reduce bluefin interactions, given the location of historic interactions between bluefin and pelagic longline gear, and the high variability of bluefin distribution in the Gulf of Mexico.

Cape Hatteras Gear Restricted Area

Under § 635.2, the definition of the Cape Hatteras GRA was modified. NMFS proposed a Cape Hatteras GRA for the months of December through April during which time vessels would be prohibited from fishing with pelagic longline gear in the defined area, with the exception of vessels granted access based upon performance criteria. Based on public comment, NMFS re-analyzed spatial and temporal configurations of the Cape Hatteras GRA, and instead is implementing a modified GRA during the same months (December through April), but of a slightly different configuration than proposed. The total area of the Modified Cape Hatteras GRA being implemented is smaller than that of the proposed Cape Hatteras GRA, due to the modification of the southeastern region of the GRA. Specifically, the southeastern corner as proposed was a ninety degree angle, but this final rule connects the southwestern corner to a more northerly point on the eastern boundary of the Cape Hatteras GRA, eliminating a triangular shaped area from the southeast region of the GRA. The shape of the Modified Cape Hatteras GRA as implemented will minimize the likelihood that pelagic longline gear set south of the GRA will drift into the GRA (based upon the prevailing direction of currents).

Allow Pelagic Longline Vessels To Fish Under General Category Rules

Under § 635.21, paragraph (c)(3) was modified, however this measure is not being implemented by this final rule. In the proposed rule, NMFS proposed allowing pelagic longline vessels that are not allowed to fish in the Cape Hatteras GRA (based on the performance criteria) to instead fish for bluefin tuna under General category rule (in the time period and area associated with the GRA). Based upon public comment and further consideration, this alternative is not being implemented as part of the Amendment 7 final rule due to concerns about ecological impacts, and uncertain economic benefits. Other commenters were concerned about the expansion of a targeted bluefin fishery in the Cape Hatteras GRA, an area that already has large numbers of interactions with bluefin. Some noted concern about the potential impacts on the rate of harvest of the General category quota, which is limited, and the indirect impacts on General category vessels. Others noted that the replacement of pelagic longline gear with handgear (targeting bluefin) is not economically viable due to the size of the pelagic longline vessels and the associated trip expenses. Based on these public comments, NMFS determined that the potential benefits of allowing pelagic longline vessels, which are part of a limited access fishery, to fish under the open-access General category rules do not outweigh the potential costs and risks associated with this activity at this time.

Limited Conditional Access to Pelagic Longline Closed Areas

Section § 635.21 and paragraph § 635.23(f)(2) were modified because this measure that would have provided vessels fishing with pelagic longline gear some access to the existing pelagic longline closed areas was not implemented. This measure was included in the proposed rule but based upon additional information, public comment, and further consideration of potential administrative costs, NMFS is not implementing this measure in the final rule. NMFS may obtain data from within the closures through the use of exempted fishing permits. As explained further in Response to Comment # 65, the potential benefits of allowing pelagic longline vessels limited conditional access to closed areas would not outweigh the potential costs and risks associated with this activity. The objectives of this alternative were to maintain the relevant conservation aspects of the closure, balance the objectives of the closures, provide commercial data from within the closures, and provide additional fishing opportunities for permitted longline vessels (mitigating the potential negative economic impacts of Amendment 7).

Vessel Monitoring System

Paragraphs § 635.69(a) and § 635.69(e)(4) were modified from the proposed rule. The proposed rule included measures requiring the use of VMS units for Purse Seine vessels, as well as reporting requirements for the Purse Seine and Longline category vessels, but did not provide all the relevant details. The scope of the measures in this final rule are within the scope of the measures proposed. This final rule clarifies the scope of the VMS requirements applicable to Purse Seine category vessels by explaining that vessels fishing with purse seine gear are subject to the same requirements as pelagic longline vessels, including hardware and communications specifications, installation checklists, power down exemptions, hail in and hail out requirements, declaration out of the HMS fishery, interruption in position reports, repair and replacement requirements, NMFS access to data, etc. Secondly, the specific bluefin tuna reporting requirements in this final rule differ from the proposed rule. The proposed rule stated that vessels fishing with either pelagic longline gear or purse seine gear would be required to submit bluefin catch reports for each day on which gear is set, and that no report would be required for sets where there is no catch of bluefin. In contrast, this final rule requires submission of a bluefin tuna catch report for each pelagic longline or purse seine set, providing information on the date the haul was completed, the number of hooks (for pelagic longline gear) and the number and size range of bluefin caught (including reporting a catch of zero bluefin).

Electronic Monitoring

The final rule provides details about the specific requirements of the electronic monitoring program that were not in the proposed rule. Section 635.9 was modified from the proposed rule. This final rule provides further clarification of the electronic monitoring program. In addition to those requirements in the proposed rule, this final rule implements the following requirements: The permit holder must make the pelagic longline vessel accessible to NMFS or a NMFS-approved contractor to allow for the installation and testing of the electronic monitoring system, which will include training for the captain and crew, and may be required to steam to a designated port for these activities. The NMFS-approved contractor will provide the vessel owner a certificate that the installed equipment is a fully functioning electronic monitoring system. The final rule contains more detailed info on video cameras; GPS receiver; hydraulic drum rotation

sensors; control box and monitor; and includes some requirements related to hydraulics, power, camera mounts and lighting. This final rule notes the requirement for a written Vessel Monitoring Plan, to be developed by the NMFS-approved contractor with the vessel owner; and includes a pre-trip electronic monitoring system test requirement.

Annual Reallocation

Paragraph 635.27(a)(4) was modified from the proposed rule, based on public comment. In this final rule, the allocations for a particular year will be based on the previous year's individual purse seine participant catch rather than category-wide catch. This modified measure will tie quota allocation more closely to individual participant catch and create an incentive for fishery participants to remain active in the fishery. Without this modification to the alternative, individual allocations would be tied to the catch of the other participants in the fishery, which could have unfair results if catch were to vary greatly among the participants. Specifically, pursuant to this final rule, each Purse Seine fishery participant will initially be given a fifth of the quota available to the category for the year (159.1 mt divided by five participants equals 31.8 mt per participant under the current ICCAT quota). Next, NMFS will determine the annual quota available for use by each individual tuna Purse Seine participant that year based on the previous year's performance. Each participant will have available either 25 percent, 50 percent, 75 percent, or 100 percent of its allocation share of the base Purse Seine quota, depending upon the level of that participant's bluefin catch the previous year.

Provide Additional Flexibility for General Category Quota-Adjustment

Paragraph 635.27(a)(1)(ii) was modified to clarify the measure. This final rule clarifies that, based on public comments, NMFS will prioritize the transfer of quota from December sub-quota time period to the January subquota time period within a fishing year in order to address the unique characteristics of the January sub-quota period.

Adjustment of Management Measures

Paragraph 635.34 was modified to clarify as follows: As a result of the implementation of new management tools via Amendment 7, the proposed rule added to the list of management measures that NMFS may modify or establish in accordance with the framework procedures of the FMP. This final rule adds two items to this list of management measures and provides examples of Amendment 7 measures that are within the scope of management measures currently listed in the regulations. The Amendment 7 measures not included in the proposed rule list are as follows: Electronic monitoring requirements and examples of measures under the purview of the administration of the IBQ Program (quota share caps by individual or by category, permanent sale of shares, and NED IBQ rules).

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the 2006 Consolidated HMS FMP, the Magnuson-Stevens Act, ATCA, and other applicable law.

NMFS prepared an environmental impact statement that analyzes the impact on the environment of a range of alternatives that would achieve the objectives of Amendment 7, which are described in the background section of the preamble for this action. A copy of the FEIS is available from NMFS (see **ADDRESSES**). As further explained in the Background, in this action, NMFS is implementing measures to minimize bycatch to the extent practicable; optimize fishing opportunity and account for dead discards; reduce bluefin tuna dead discards; enhance reporting; and adjust other aspects of the 2006 Consolidated HMS FMP as necessary and appropriate.

This final rule has been determined to be not significant for purposes of Executive Order 12866. The Agency has consulted, to the extent practicable, with appropriate state and local officials to address the principles, criteria, and requirements of Executive Order 13132.

Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis (FRFA) was prepared for this rule. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, our responses to those comments, and a summary of the analyses completed to support the action. The full FRFA and analysis of economic and ecological impacts are available from NMFS (see ADDRESSES). A summary of the FRFA follows.

The purpose of this final rulemaking, consistent with the Magnuson-Stevens Act, and the 2006 Consolidated HMS FMP and its amendments, is to implement HMS management measures that: (1) Optimize the ability for all permit categories to harvest their full bluefin quota allocations, account for mortality associated with discarded bluefin in all categories; maintain flexibility of the regulations to account for the highly variable nature of the bluefin fisheries; and maintain fairness among permit/quota categories; (2) reduce dead discards of bluefin tuna and minimize reductions in target catch in both directed and incidental bluefin fisheries, to the extent practicable; (3) improve the scope and quality of catch data through enhanced reporting and monitoring to ensure that landings and dead discards do not exceed the quota and to improve accounting for all sources of fishing mortality; and (4) adjust other aspects of the 2006 Consolidated HMS FMP as necessary and appropriate. These objectives are intended to support the following goals: Prevent overfishing and rebuild bluefin tuna, achieve on a continuing basis optimum yield, and minimize bluefin bycatch to the extent practicable by ensuring that domestic bluefin tuna fisheries continue to operate within the overall TAC set by ICCAT consistent with the existing rebuilding plan.

Summary of Significant Issues Raised by Public Comments

Section 604(a)(2) of the RFA requires a summary of the significant issues raised by the public comments in response to the IRFA, a summary of the assessment of the Agency of such issues, and a statement of any changes made in the rule as a result of such comments. NMFS received many comments on the proposed rule and IRFA. Summarized public comments and the Agency's responses to them are included in this final rule, in the "Responses to Comments" section of this preamble, above. The specific economic concerns raised in the comments are also summarized and addressed here (the numbering of the excerpted comments reflects the numbering in the "Responses to Comments" section, above).

Comment 2: Many commenters, particularly those with small businesses involved in the pelagic longline fishery, expressed concern regarding the potential for negative economic impacts of Amendment 7 on jobs, families, and communities, and noted the importance of pelagic longline-caught fish in supplying high quality seafood to the nation. These commenters were concerned about the potential for the Amendment 7 measures to put people out of business, and "destroy the pelagic longline fishery." Commenters stated that vessels that are currently only marginally economically viable would be at particular risk of going out of business, but were also concerned about

any secondary impacts on related businesses such seafood dealers, gear manufacturers, etc. They urged NMFS to use a balanced regulatory approach to address the Amendment 7 objectives, and stated that Amendment 7 measures would increase uncertainty in the pelagic longline fishery.

Response: The seafood supplied to the Nation by the pelagic longline fleet is valuable as both a source of food, and for the generation of income supporting local jobs, communities, and the broader economy. NMFS designed management measures to minimize economic impacts by relying on the combined effects of multiple management tools and incorporating flexibility into the system. The preferred measures will affect all permit/quota categories, and reflect the balance of addressing the issues confronting the bluefin tuna stock and management of the fishery while maintaining the viability of the pelagic longline and other fisheries dependent upon bluefin tuna. For example, reductions in dead discards would be achieved through the use of multiple measures, including gear restricted areas, the IBQ system, and quota allocation measures. The preferred measures would modify the quota system to increase management flexibility in order to allocate quota among categories to maximize opportunities to catch available quota, account for dead discards, and respond to changing conditions in the fishery. As the pelagic longline fleet is adjusting to the suite of new measures, NMFS would have the flexibility to allocate a limited amount of additional quota to the pelagic longline vessels if necessary to prevent a fishery closure, and still, as a result of the gear restricted areas and IBQ system, reduce the net amount of bluefin catch from the levels recently caught. The management measures work together to reduce dead discards and otherwise reduce bycatch to the extent practicable, increase accountability, enhance reporting and monitoring, and optimize quota allocation, in a predictable but flexible manner. The potential economic impacts of the measures affecting the pelagic longline fleet are analyzed in Chapters 5 and 7, of the FEIS, and the economic rationale is summarized in this FRFA.

Comment 3: Commenters stated that when determining whether the pelagic longline fleet should be subject to additional restrictions, NMFS should consider the current and past regulatory environment and other factors as context. Commenters stated the pelagic longline fishery is already heavily regulated to minimize its environmental impacts, especially in the GOM (*e.g.*, closures, weak hook requirement, observer deployment, bait requirements), and that progress is being made. Furthermore, increases in fuel costs strain fishers' ability to make a living, and events such as the 2010 oil spill in the GOM continue to be relevant. Commenters noted that bluefin tuna is managed at the international level and believe that the United States manages its citizens in a more effective and responsible way than other countries, and that NMFS should not further regulate bluefin tuna and increase the management disparity between the United States and other countries.

Response: The context in which vessels operate, including current regulations was a relevant factor NMFS considered in determining whether new regulations are justified. NMFS took into consideration many factors in selecting preferred measures that address the diverse objectives of Amendment 7 in a balanced manner. Chapter 6 of the FEIS contains a cumulative impacts analysis which is broad in scope and takes into consideration past, present, and reasonably foreseeable factors. In addition, Chapter 2 of the FEIS contains a description of measures and the rationale for the preferred measures. This FRFA includes a description of the steps taken to minimize the economic impacts on small entities, and the reasons for the preferred measures.

The United States manages its exclusive economic zone in accordance with applicable U.S. laws and in response to the unique characteristics of its fisheries, and therefore the U.S. regulations regarding bluefin tuna are different from the rules affecting citizens of other countries, which operate under different laws and circumstances. Where U.S. regulations are more restrictive than those abroad, NMFS believes that the corresponding ecological and socio-economic benefits that result from such restrictions are also likely to be greater than those abroad.

Comment 12: Many commenters strongly opposed reallocating quota to the Longline category because of concerns about the economic impacts on a particular geographic region (*e.g.*, New England or mid-Atlantic), or quota category (*e.g.*, the General category or the Angling category). Some commenters urged NMFS to respect the historical allocation percentages, and noted that reallocation would have the effect of pitting the different categories against each other. Some commenters suggested that NMFS consider other regulatory and economic circumstances facing vessels that may be impacted by a reduced quota. For example, Congressional representatives from Massachusetts and the New England Fishery Management Council (Council) stated that the proposed reallocation would disadvantage the New England Fishery, the traditional Massachusetts fleet, and shore-side infrastructure, and would allow fleets from other regions to use a disproportionate amount of quota. They were concerned about the commercial fleet, which is experiencing economic damage due to the decline in key stocks in the groundfish fishery. The Council suggested that NMFS assess the port-specific impacts of reallocation. A commenter was concerned that recreational vessels in the mid-Atlantic region would be disproportionately affected by quota reallocation because the quota may not last until the time the bluefin are off the mid-Atlantic coast.

Response: A reduction in quota may impact the revenue associated with a particular quota category or geographic region, or result in secondary economic impacts on a community. The FEIS analysis estimates that reallocation of quota to the Longline category could reduce revenue for individual vessels with a General category permit by $850 and result in total reduction in maximum revenue of $542,000 for all General category vessels. Although thirty percent of the General category permits are associated with the State of Massachusetts (1,150 permits as of October 2013), the total number of active vessels is substantially lower. Of the total number of General category permits issued throughout the Atlantic coast (3,783), the average number of General category vessels landing at least one bluefin between 2006 and 2012 was 474 vessels. Thus, the number of active vessels in Massachusetts can be presumed to be substantially fewer than 1,150.

When considering the social and economic impacts of actions, different communities and regions may be impacted to different degrees due to their unique regulatory and economic circumstances. The FEIS contains an analysis of the community impacts from the 2010 Deepwater Horizon/BP Oil Spill, and a 2013 analysis that presents social indicators of vulnerability and resistance for 25 communities selected for having a greater than average number of HMS permits associated with them. Those communities with relatively higher dependence upon commercial fishing included Dulac, LA; Grand Isle, LA; Venice, LA; Gloucester, MA; New Bedford, MA; Beaufort, NC; Wanchese, NC; Barnegat, NJ; Cape May,

NJ; and Montauk, NY. The analyses are principally at a fishery-wide, or permit category level. The bluefin tuna fisheries (and other HMS fisheries) are widely distributed and highly variable due to the diversity of participants (location, gear types, commercial, recreational), and because bluefin tuna are highly migratory over thousands of miles, with an annual distribution that is highly variable. The specific ports and communities that provide the goods and services to support the fishery may vary as well, as vessels travel over large distances to pursue their target species. Due to this variability, it is difficult to predict potential revenue and secondary impacts of preferred management measures by port or by state. Vessels fishing in any geographic area in the Atlantic or Gulf of Mexico are likely to have only limited access to bluefin tuna, unless they travel long distances within the bluefin's migratory range.

It is important to note that the actual economic impacts of reallocation of quota depend upon the total amount of quota allocated to (and harvested from) each of the quota categories, as a result of the combined effect of all of the measures that affect quota. For example, in addition to the amount of quota available as a result of the percentage allocations, and deductions for the 68 mt Annual Reallocation, there may be quota available for redistribution to various quota categories. Specifically, pursuant to the preferred "Annual Reallocation" measure, as described in Chapter 2 of the FEIS, if the Purse Seine category has not caught 70 percent of its quota during the previous year, quota may be moved to the Reserve category and subsequently reallocated across multiple user groups. Furthermore, in recent years, many categories have not fully harvested their amount of quota available to them. Thus, the actual impacts of reallocation may be minor or may be mitigated by future reallocation when available.

Reallocation of quota may result in frustration or negative attitudes among fishery participants of different quota categories, due to the changes to an historically accepted quota allocation system, or perceptions of unfairness. However, the modifications to the quota system are warranted for the reasons described in the response to comments 8 through 1. They are also fair due to the fact that all quota categories are affected in proportion to their quota percentage. As explained in the response to Comment# 9 above, NMFS designed the quota allocation alternatives to minimize the economic impacts on the non-longline categories. The alternatives take into consideration the relative size of each category quota (in the case of the "Codified Reallocation Alternative," or the level of activity of vessels ("Annual Reallocation Alternative"), and are designed to consider changing levels of quota or landings, respectively, in ways that reduce economic impacts.

Comment 13: Many recreational anglers wanted to insulate the Angling category from any potential effect of quota reallocation to the Longline category, citing the economic impacts and high value of the recreational bluefin fishery to the economy, as well as the economic investments of the participants and the current regulatory burden such vessels face. Vessel owners with General category commercial permits expressed concern about the potential impacts to the General category. Commenters requested additional quantitative analyses comparing the different quota categories, including primary and secondary impacts.

Response: As stated above in the response to the previous comment, a reduction in quota may impact the revenue associated with a particular quota category or result in secondary economic impacts on a community. The objective of the preferred allocation measures is not to reallocate quota based on economic optimization, but to: account for bluefin dead discards within the Longline category; reduce uncertainty in annual quota allocation and accounting; optimize fishing opportunity by increasing flexibility in the current bluefin quota allocation system; and ensure that the various quota categories are regulated fairly in relative to one another.

The reallocation measures implemented by this final rule will minimize adverse economic impacts to the extent practicable because the relative amount of quota reallocated is small and proportional to the size of the category quota, and the overall quota system will be more flexible and predictable and able to offset some or all of the negative economic impacts. This approach was developed consistent with our obligation under National Standard 6 (Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches) and National Standard 8 (Conservation and management measures shall, consistent with the conservation requirements of this chapter (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.)

Although the FEIS includes estimates of the value of bluefin tuna quota by quota category for comparative purposes, the preferred codified reallocation was not based on a specific economic analysis, but the achievement of the stated objectives. An elaborate quantitative analysis that compares the economic value of the Angling, Longline, and General category fisheries was not conducted due to the different characteristics of the Angling, Longline and General category fisheries, the variable amount of data associated with these fisheries, and the large number of factors and assumptions that contribute to estimating the value of a fishery. For example, under the preferred IBQ system, the availability of bluefin tuna quota may be a limiting factor for a pelagic longline vessel, and therefore the lack of adequate bluefin quota, by even a small amount, could result in a vessel being prohibited from fishing with pelagic longline gear. In that circumstance, the value of the bluefin quota to the vessel owner may be very high, and related to the value of the target catch (*e.g.*, swordfish or yellowfin tuna). On the other hand, the value of a bluefin tuna to a recreational angler or to the recreational fishery at-large may include the value of the recreational experience to the angler, as well as the associated goods and service supporting the fishing trip. The FEIS indicates that the Angling category would potentially face unquantified reductions in economic and social activity associated with the 7.36 percent reduction in available quota. In contrast, for a vessel fishing commercially in the General category, a high quality bluefin tuna sold to Japan may be extremely valuable and other catchfar less important.

Comment 20: NMFS should avoid closures to the pelagic longline fishery. Any closure would disrupt markets.

Response: NMFS acknowledges that GRAs designed to reduce bluefin tuna interactions and regulatory discards and to thus decrease bycatch have costs associated with them, and may have disruptive effects on local markets. NMFS designed the GRAs (*i.e.*, their timing and configuration) after considering the amount of reduced fishing opportunity as well as the amount of reduced bluefin interactions, in order to minimize potential disruptions in markets. NMFS designed the Modified Cape Hatteras GRA to provide access opportunities to

fishermen that have a proven ability to avoid bluefin, and are compliant with the observer and logbook requirements. As described in the Response to Comment #47, NMFS specifically modified the Cape Hatteras GRA from what was proposed to reduce disruption to ongoing fishing in an adjacent area, and thereby reduce potentially negative economic impacts of the alternative. Evaluation of all alternatives considered both economic and ecological considerations (*i.e.*, the potential reductions in revenue associated with estimated reductions in bluefin interactions).

Comment 21: NMFS should not implement GRAs. NMFS received comments indicating that, due to a variety of reasons, commercial fishermen may be limited to certain fishing locations by the size and configuration of their vessels, insurance requirements, or safety concerns, and that some participants in the fishing fleet have nowhere else to fish (except in the location of the GRA) and they would be "shut out" of the fishery.

Response: The underlying concept of the Modified Cape Hatteras GRA minimizes economic impacts by providing conditional access to the area, based on performance criteria. The majority of the pelagic longline fleet will be allowed to fish in the area upon implementation, and in the future if conditions for access continue to be met. In estimating ecological and socio-economic impacts of the Modified Cape Hatteras GRA, NMFS determined that 14 vessels will not have access to this GRA. Of these 14 vessels, four vessels made over 75 percent of their sets in the Modified Cape Hatteras GRA. Based upon the location of their historical catch, and to ensure that NMFS did not underestimate the potential economic impacts, the analysis assumes that these vessels would not redistribute effort outside of the gear restricted area. Although these four vessels could redirect from fishing grounds off Oregon Inlet, NC to fishing grounds between Cape Fear and Cape Hatteras, such a change in fishing grounds may involve substantial costs (fuel, longer trips, possible transfer and dockage in a new port, etc.). However, NMFS modified the Cape Hatteras GRA in a way that would achieve the reduction in bluefin discards, and would also allow fishermen to continue to deploy gear in regions south and west of the GRA, thereby reducing adverse impacts. With respect to the potential negative impacts of the Modified Spring Gulf of Mexico GRA, approximately 61 vessels that fish in the Gulf of Mexico would be affected. Given the consistent pattern of historical catch of large numbers of bluefin tuna in certain times and locations by pelagic longline gear, NMFS determined that a GRA in both the Gulf of Mexico and the Atlantic are necessary in order to achieve reductions in bluefin tuna dead discards, and that the potential economic impacts are warranted in order to achieve such reductions. The potential negative socio-economic impacts were minimized by using an iterative process to design the gear restricted areas. The Modified Spring Gulf of Mexico Pelagic Longline GRAs were designed in order to achieve a balance between a reduction in bluefin dead discards, protection of the Gulf of Mexico spawning stock, and continued operation of the pelagic longline fleet in the Gulf of Mexico. The specific boundaries of the area were determined by an iterative process, by selecting areas of historical pelagic longline interactions with bluefin, and comparing both the anticipated reduction in bluefin interactions with the estimated reduction in revenue, of different configurations. In addition, NMFS selected the time period due to its occurrence during the peak bluefin spawning period in the GOM.The magnitude of the potential economic impacts result from the specific location and duration of the GRA. The size of the Modified Spring Gulf of Mexico Pelagic Longline GRA was based upon the historical location and number of bluefin interactions, as well as the recent persistent trend in fishing effort shifting to the east of this area, and the known variability in the fishery in general. A smaller geographic area would be unlikely to achieve meaningful reductions in bluefin tuna interactions. The duration of the GRA encompasses the months with the highest number of interactions during the spawning period. An alternate, or shorter time period would coincide with neither the highest number of bluefin interactions nor the bluefin spawning period peak.

Comment 29: NMFS should not penalize small vessels because of their inability of provide adequate space for observers.

Response: NMFS designed the scoring system for the Pelagic Observer Program Performance metric in the preferred alternative such that valid reasons for not carrying an observer will not be penalized. Observer coverage is integral to the management of the fishery as it contributes important, objective data in support of the management of protected species and provides important information on the pelagic longline fishery utilized in the management of bluefin and other HMS species. Due to the importance of having enough observed trips to meet the observer coverage targets required by national and international law, NMFS also evaluated vessels on the number of trips observed. The agency utilizes observer data to develop estimates of protected resources interactions and estimates of discards of other species including bluefin. These data are essential for stock assessments and are critical in meeting international management obligations. Under ATCA and as a contracting party of ICCAT, the United States is required to take part in the collection of biological, catch, and effort statistics for research and management purposes.

Comment 48: NMFS should consider the potential negative economic impact on fishermen in the area who do not have access to other fishing grounds.

Response: The preferred design of the Cape Hatteras GRA was the result of an iterative process. NMFS analyzed multiple time periods and geographic areas in order to take into consideration both the potential reduction in the number of bluefin interactions and the potential reductions in target catch. The analysis considered relevant fisheries data and oceanographic trends. In the DEIS, due to current patterns in the Cape Hatteras area, the zone affected by the proposed Cape Hatteras GRA was analyzed beyond the explicit boundaries of the GRA. Analysis of a buffer region was needed because vessels to the south and west of the GRA would be prevented from fishing in these areas due to their gear drifting into the GRA (having the effort of creating a larger affected geographic area that the boundary of the GRA). The DEIS analysis of impacts not only considered the reduced fishing effort within the GRA, but also the reduced fishing effort in a buffer region to the south and west of the area. Therefore, NMFS included sets made in this buffer region into the redistribution analyses. In the FEIS, based on public comment and additional analyses, NMFS now prefers the Modified Cape Hatteras GRA which would minimize the adverse impacts on fishing opportunities while still achieving comparable reductions of bluefin discards and almost identical conservation and management benefits as the original proposal.

Comment 50: A large number of commenters expressed general support for a GRA in the GOM, while others stated that NMFS should not implement a GOM GRA, due to the severe economic impact it would have on the fishery.

Response: Implementation of a GRA in the GOM supports the achievement of the Amendment 7 objectives. A GRA will, in conjunction with the other management measures implemented by this final rule, result in the reduction of dead discards of bluefin tuna by the pelagic longline fishery. Although implementation of a GRA would have a negative economic impact on the pelagic longline fishery, the preferred alternative would have less of an impact than some of the other alternatives considered and analyzed. As described in more detail in the responses to comments below, NMFS analyzed a range of alternatives, and took into account the importance of fishery resources to fishing communities by analyzing economic and social data. Because GRAs may result in the reduction and/or redistribution of fishing effort by pelagic longline gear, the preferred alternative represents a balance between anticipated reductions in dead discards of bluefin, and potential negative economic impacts on the pelagic longline fishery. Furthermore, the preferred alternative will support the broader objectives of both stock rebuilding as well as the continued viability of the commercial and recreational fisheries that depend upon bluefin tuna.

Comment 55: One commenter noted that the size of the fishable area in the GOM is already small, given the constraints on the locations where they can fish, including existing pelagic longline closed areas, as well as the areas that must be avoided for other reasons (*e.g.*, activity range of seismographic vessels, which can operate for up to six months, and oils rigs).

Response: NMFS acknowledges that the preferred Spring Modified GOMo Pelagic Longline GRAs would further reduce the amount of fishable areas in the GOM available for the use of pelagic longline gear, and that vessels choosing to fish in the GOM with pelagic longline gear must work around other industrial users of Gulf of Mexico resources. NMFS selected the boundaries of the Spring Modified Gulf of Mexico GRAs with careful consideration of the associated benefits and costs. NMFS optimized the size of the preferred GRAs to achieve a meaningful reduction in dead discards, and still leave fishing grounds open for the pelagic longline fleet. The Cumulative Impacts Analysis in the FEIS (Chapter 6) considers the impacts of the preferred alternatives in the broader context of other historical and current activities.

Comment 56: NMFS should consider the impact on the yellowfin tuna and swordfish fisheries, which are active in the GOM and in the areas covered by the GRAs. Specifically, the commenter questioned whether the GOM pelagic longline fleet would be able to remain active.

Response: NMFS carefully considered the impact of the preferred Modified Spring Gulf of Mexico GRAs on yellowfin and swordfish fisheries, both of which are robust and healthy fisheries in the GOM. The estimated reductions in revenue totals of the preferred GRAs (assuming effort is redistributed) were calculated for the alternatives for both swordfish (ranged from $11,583 to $2,089,885 on average per year) and for yellowfin tuna (ranged from $59,500 to $3,964,682, on average per year) fisheries. The preferred Spring Modified Gulf of Mexico GRAs would achieve a balance between conservation objectives and providing continuing opportunity for the GOM swordfish and yellowfin tuna fisheries. The primary conservation objectives of the GRAs is to reduce bluefin interactions, and reduce bycatch and bycatch mortality to the extent practicable. NMFS compared among the alternatives the amount of 'savings' of bluefin tuna and the reduction in target catch as part of its analysis of the gear restricted areas. Under the Preferred Alternative, the annual reductions in revenue associated with the reduced catches of swordfish and yellowfin tuna are estimated at $41,504 and $207,110, respectively. The annual reduction in total revenue is estimated at $1,793,922. An example of how the data was compared and alternatives evaluated follows: Comparing the Preferred Alternative with the alternative that would restrict the full EEZ from March through May, the reduction in the weight of bluefin catch would be a little more than twice as much under the EEZ GRA (44.2 mt versus 19.2 mt under the Preferred), but the reduction in total revenue associated with the EEZ GRA would be more than six times larger than the reduction in total revenue associated with the Preferred Alternative ($1,793,922 versus $281,614 under the Preferred). In other words, compared to the Preferred Alternative, the amount of additional costs that would be associated with the EEZ GRA would be disproportionately greater than the additional conservation benefits associated with the EEZ GRA. The Amendment 7 measures are not designed to target a particular amount of reduction in dead discards, but rather reduce dead discards in a meaningful way, provide strong incentives to avoid and reduce bycatch, and take into account the potential impacts on the pelagic longline fishery. The combined effect of the Modified Spring Gulf of Mexico Pelagic Longline GRA and the Modified Cape Hatteras Pelagic Longline GRA, would reduce the number of bluefin discarded by 40 percent and the number of bluefin kept by 10 percent (fishery-wide).

Comment 63: Some commenters supported the proposed measure to allow vessels fishing with pelagic longline gear that are not authorized conditional access to the Cape Hatteras GRA, to fish under General category rules. Vessel owners wanted to have this type of fishing opportunity as mitigation for the lost opportunity of fishing with pelagic longline gear in the Cape Hatteras GRA, between December through April. Some commenters did not support the proposed opportunity for such vessels to fish under the General category rules for various reasons. Some noted that the activity would be a "dangerous precedent," because limited access vessels would be allowed to fish under the rules applicable to an open access category, General category vessels would not be allowed to fish as a pelagic longline vessel. Others were concerned about the expansion of a targeted bluefin fishery in the Cape Hatteras GRA, an area that already has large numbers of interactions with bluefin. A commenter found it ironic that vessels not allowed to fish with pelagic longline gear in the Cape Hatteras GRA (proposed in order to reduce bluefin interactions with pelagic longline gear) due to their low performance criteria score would be provided an opportunity to target bluefin tuna. Some noted concern about the potential impacts on the rate of harvest of the General category quota, which is limited, and the indirect impacts on General category vessels. Others noted that the replacement of pelagic longline gear with handgear (targeting bluefin) is not economically viable due to the size of the pelagic longline vessels and the associated trip expenses. A commenter stated that the proposed measure would facilitate trans-shipment of bluefin from Longline category to General category vessels. A commenter suggested that all pelagic longline vessels should be able to fish under the General category rules, and not only those affected by the GRA.

Response: Based upon public comment and further consideration, NMFS is not implementing the management measure that would have allowed vessels fishing with pelagic longline gear that are not authorized conditional access to the Cape Hatteras GRA to fish under General category rules. While this measure would have

provided additional fishing opportunities to pelagic longline vessels without access to the Cape Hatteras GRA, the differences in fishing costs and productivity between pelagic longline gear and handgear are great enough that handgear fishing for bluefin tuna would not be economically viable for a pelagic longline vessel. Given the unlikely -economic benefits as well as public perceptions of unfairness, the potential benefits of allowing vessels to fish under the General category rules do not outweigh the potential costs and risks associated with this activity.

Comment 64: NMFS received a large number of comments that did not support the proposed limited conditional access to closed areas for vessels using pelagic longline gear, for a variety of reasons. Commenters, including the Florida Fish and Wildlife Conservation Commission, were foremost concerned about potential negative biological impacts on swordfish, billfish, and other species, as well as the indirect negative socio-economic impacts on the recreational fishing community if there were negative biological impacts. Specifically, commenters cited the benefits of the DeSoto Canyon and East Florida Coast closed areas contributing to the rebuilding of the swordfish stock, and the stabilization of the blue and white marlin stocks. Commenters stated that the biological analysis of the alternative was inadequate, and one commenter was concerned about the impacts on dusky sharks. Some commenters supported access, noting the importance of such access as a means to provide flexibility to pelagic longline vessels in the context of the IBQ Program restrictions, while others suggested modifications to the alternative such as allowing the use of electronic monitoring instead of human observers.

Response: Based upon public comment and further consideration of potential administrative costs, NMFS is not implementing this management measure. The potential benefits of allowing pelagic longline vessels limited conditional access to the closed areas would not outweigh the potential costs and risks associated with this activity. The objectives of the proposed measure were to maintain the relevant conservation aspects of the closure, balance the objectives of the closures, provide commercial data from within the closures, and provide additional fishing opportunities for permitted longline vessels (mitigating the potential negative economic impacts of Amendment 7). The East Florida Coast, Charleston Bump, and DeSoto Canyon Closed Area were implemented as part of a bycatch reduction strategy, based on three objectives: (1) Maximize the reduction in incidental catch of billfish and of swordfish less than 33 lb dressed weight; (2) minimize the reduction in the target catch of larger swordfish and other marketable species; and (3) ensure that the incidental catch of other species (*e.g.*, bluefin, marine mammals, and turtles) either remains unchanged or is reduced. Upon implementation, NMFS recognized that all three objectives might not be met to the maximum extent, and that conflicting outcomes would require some balancing of the objectives. There are data that supports the assertion that the closed areas have contributed to the achievement of their objectives, in concert with other management measures. NMFS provides an annual review of the potential effectiveness of the current suite of management measures, including closed areas, at reducing bycatch in its annual SAFE report for HMS. Although the SAFE report does not isolate and quantify the effectiveness of closed areas as a separate management tool, the estimated reductions in discards of swordfish, blue marlin, white marlin, sailfish, and spearfish, as a result of all management measures have remained consistently high (-50 to -70 percent), suggesting that the current suite of international and domestic management measures have played a significant role in allowing the United States to reduce its bycatch interactions. Given the likely benefits of the closed areas, the difficulty in determining the precise magnitude of the benefits of the closed areas in the context of other management measures, as well as the difficulty predicting the potential impacts that access to closed areas would have, NMFS believes that there is uncertainty whether in fact the first objective of the alternative (maintain relevant conservation aspects of the closure) would be met. The access to closed areas alternative did not include defined bycatch limits, but would have relied upon the assumption that low levels of fishing effort is sufficient to prevent excessive bycatch. Furthermore, there would be administrative costs associated with the access program. Therefore, the benefits associated with providing additional fishing opportunities (by providing access) would not outweigh the costs in terms of the risk of undermining the conservation benefits of the closed areas. With respect to providing commercial data from within the closures, as stated previously, NMFS may obtain data from within the closures through the use of exempted fishing permits.

Comment 68: Commenters supported implementation of the IBQ system in order to hold vessels accountable and provide incentives to reduce discards. Commenters noted that NMFS should provide some flexibility in the IBQ system, particularly in the short-term, to ensure that vessels, especially small vessels, are able to adapt to the new restrictions and the overall program is successful. Commenters urged NMFS to continue to support the pelagic longline swordfish fishery, which is important for multiple reasons.

Response: Implementation of the IBQ system will increase the responsibility and accountability of individual vessels and the pelagic longline fishery as a whole, for the catch of bluefin tuna. As explained in detail in the responses to more specific comments, the individual bluefin quota system implemented by this final rule is designed to provide a reasonable and effective means of reducing dead discards, increasing accountability, and maintaining a viable pelagic longline fishery. The management measures are intended to provide flexibility at the level of the individual vessel, and in the quota system as a whole, so that the fishery can operate under the challenges of a substantially new regulatory structure. Furthermore, the fishery must be able to adapt on a continuing basis to the variability of highly migratory species, and changing ecological conditions.

Individual pelagic longline vessels have the flexibility to change their fishing practices through modification of fishing behavior (including time, location and methods of fishing, and the use of non-longline gear); increasing communication within the fishery to facilitate bluefin avoidance; and leasing of individual bluefin quota. Under Amendment 7, NMFS may also provide additional flexibility by allocating additional quota to the Longline category, as described in the response to Comments 18 and 19.

Comment 76: The Louisiana Department of Natural Resources (Louisiana DNR) commented that Amendment 7 will have large negative socio-economic impacts on the GOM pelagic longline fishery, with greatest impacts in Louisiana. The Louisiana DNR also asserted the rule will have minimal benefits to the bluefin stock, and attributed the economic impacts mostly to the IBQ Program, which it feels is inconsistent with the Louisiana Coastal Resources Program. Louisiana DNR noted that the potential benefits to the stock of bluefin tuna are minimal compared to the potentially large socio-

economic impact to the targeted fisheries, and NMFS' consistency determination lacks sufficient data and information.

Response: Pelagic longline vessels may be negatively impacted by the preferred IBQ Program, and such impacts would likely be felt in the ports and communities associated with the fishery, including those in Louisiana, which is home to approximately 27 percent of the active pelagic longline vessels. Florida, New York, and New Jersey would also be impacted due to the distribution of active pelagic longline vessels (31 percent, 16 percent, and 16 percent of the active vessels, respectively). Bluefin dead discards in the GOM by pelagic longline vessels have typically ranged from 36 to 86 mt per year. The benefits of the preferred IBQ Program include strictly limiting bluefin catch in the pelagic longline fishery, reduction of dead discards and waste, and promotion of economic efficiency, all of which will contribute to stock growth and a sustainable bluefin tuna fishery in the long term. The fact that the GOM is a critically important spawning area for bluefin contributes to the biological importance of having a quota system that effectively limits bluefin catch and provides incentives for pelagic longline vessels to minimize interactions with bluefin.

The IBQ Program was analyzed by home port state, and the impacts by state vary, depending upon the specific measurement (*i.e.*, number of vessels with quota share, number of vessels that may need more quota than allocated; amount of quota that each vessel would need; and total amount of quota that each state would need). The states with the highest number of vessels with quota shares would be Florida (43 vessels with quota shares), Louisiana (25 vessels), New Jersey (18 vessels), North Carolina (14 vessels) and New York (11 vessels). Under the regulatory conditions of the Preferred Alternatives, within those home port states, the number of vessels that would need to lease additional quota (above their initial allocation) to continue fishing at their historic rates are as follows: Florida (5 vessels), Louisiana (13 vessels), New Jersey (4 vessels), North Carolina (2 vessels) and New York (3 vessels). Although the proportion of vessels in a particular state that would need to lease additional quota is highest in New Orleans, the average amount of quota that the vessels would need to lease is almost identical similar among vessels from the ports of Louisiana, Florida, and New Jersey. Vessels with the homeport state of New York would need to lease about four times more quota per vessel to continue fishing at their historic rates. The estimate of the total amount of quota that vessels with a home port of New York would need to lease is 13.4 mt (11 vessels), and the total amount of quota that vessels with a home port in Louisiana would need to lease is 17.4 mt (25 vessels). NMFS has concluded that this action is fully consistent with the enforceable policies of the management program, though the State of Louisiana objects. The FEIS analysis demonstrates that NMFS utilized many of the factors cited by Louisiana as lacking in NMFS' evaluation. Specifically, NMFS used the best available logbook, dealer, and observer data, conducted vessel-specific analyses for preferred alternatives on GRAs and IBQ measures, and relevant recent scientific information. NMFS also explored the availability of alternative methods of achieving the Amendment 7 objectives, and considered the economic impacts, and the long-term benefits of the measures. The alternative methods to reduce dead discards—no action or group or regional quotas—would have more adverse impacts and be less effective in achieving Amendment 7 objectives to reduce dead discards and maximize fishing opportunity. The design of the IBQ management measures and other aspects of Amendment 7 minimize the significant adverse economic impacts, disruption of social patterns, and adverse cumulative impacts, to the extent practicable, relative to other methods analyzed while also meeting Amendment 7 objectives.

The preferred IBQ Program was designed to provide flexibility for vessels to be able to continue to maintain viable businesses, through initial allocations, potential allocation of quota from the Reserve category, quota leasing, elimination of the target species requirement, and, as described above, the flexibility for vessels to fully account for their catch at the end of a trip, after sale of the bluefin.

Comment 78: Commenters were concerned about the ability of new entrants to become active in the fishery, and some suggested that NMFS use an annual system to define eligible vessels, such as a minimum number of sets during the previous year. A commenter noted that businesses which supply new equipment to outfit pelagic longline vessels would be negatively impacted if new entrants were not able to enter the fishery.

Response: The ability for people who are currently not involved in the pelagic longline fishery to become participants in the fishery (new entrants) is an important consideration, and is a required consideration under the MSA. The preferred Amendment 7 IBQ Program would add a single additional prerequisite for participation in the pelagic longline fishery to the previously existing two prerequisites and associated monitoring and compliance requirements (*e.g.*, VMS). Prior to this Amendment, the two principal elements for participation in the fishery were a vessel and limited access permit. The preferred IBQ Program would implement a requirement for a vessel to have the minimum amount of bluefin quota allocation to fish with pelagic longline gear, as well as electronic monitoring requirements associated with preferred IBQ Program.

The preferred IBQ Program would provide adequate opportunities to new entrants to the fishery because there would be multiple means by which a new entrant may satisfy the quota requirement. The structure of the preferred IBQ Program would not create any unreasonable barriers to new entry. A person interested in participating in the fishery may purchase a permitted vessel with IBQ shares, and therefore be allocated quota annually (due to the IBQ share associated with the permit), or a person may purchase a permitted vessel without IBQ shares, and lease quota allocation from another permitted vessel. Under the preferred IBQ Program, as in the past, participation in the pelagic longline fishery by new entrants would require substantial capital investment and potential new entrants will face costs which are similar to historical participants.

NMFS considered the merits of setting aside a specified amount of quota for new entrants, but found several negative aspects of such a provision. For example, providing quota to new entrants would essentially create a second quota allocation system, which would complicate the overall preferred IBQ Program by creating separate class of vessels, with different allocations. A quota set aside for new entrants would result in less quota available for other participants in the fishery, and rather than the market controlling the quota, there would be many policy decisions to be made (*e.g.*, would the amount of set aside vary according to the number of new entrants, or be a fixed amount annually? Would the quota be divided equally among new entrants, be allocated in the minimum share amounts, or allocated based on fishing history?). NMFS believes in simplifying the IBQ Program upon implementation where possible, to minimize regulatory burden and complexity. A system of rules regarding quota set aside would

add additional complications to the IBQ Program. Therefore, when considering whether additional restrictions to facilitate new entrants to the fishery are warranted, NMFS determined that given the lack of information with which to base such restrictions, and the uncertainty whether there would be a pressing need for such restrictions, a quota set aside was not warranted. During the three year review of the IBQ Program NMFS will consider information from the fishery after implementation of the IBQ Program, and evaluate whether the IBQ Program provides adequate opportunities to new entrants.

As suggested by commenters, NMFS considered the concept of making an annual determination of which vessels are eligible to receive quota allocations based on a set of criteria (such as a certain number of longline sets during the previous year). NMFS found that there are negative aspects of such an annual system. If the vessels allocated quota shares varied on an annual basis, the IBQ Program would be more complex and difficult to administer; there would be greater uncertainty annually in the fishery; there would be incentives to fish on an annual basis (due to criteria to fish in order to receive quota); and any value associated with a permit that would be derived from the associated IBQ share may be minimized (if the IBQ share is only valid for a year). Although such a system could limit the number of years a vessel without quota share (*i.e.*, a new entrant) must lease quota, the negative aspects of this approach would be substantial. For example, in order to have an IBQ system that includes strong accountability, any quota 'debt' accrued must persist from one fishing year to the next. It would be difficult to implement persistent accountability if the vessels eligible for quota changed on an annual basis.

Comment 82: Many pelagic longline vessel owners expressed strong concerns that the amount of bluefin quota allocated to individual vessels would be inadequate to continue to fish, and that despite efforts to avoid bluefin, vessels would sooner or later encounter bluefin. The proposed allocations would make continuing fishing operations extremely difficult, because they would be forced to stop fishing, and therefore revenue would be cut off, but expenses would continue. Vessel owners stated that they would not be able to remain in business under such circumstances, and some estimated that a large vessel would need about 20 bluefin to account for the anticipated amount of bluefin catch (instead 2 to 13 fish). Some highlighted the difference between the proposed IBQ allocations and the number of bluefin tuna that may be retained by a vessel with a General category commercial permit (up to 5 bluefin a trip), as justification for having larger individual quota allocations.

Response: Under the preferred IBQ Program, some vessels will not have enough quota share to continue to account for the same amount of bluefin they caught in the past. The FEIS analysis indicates that at a quota level of 137 mt approximately 25 percent of vessels will need to lease additional bluefin quota in order to land their historical average amount of target species if they do not change their behavior to reduce their historical rate of bluefin interactions. If no leasing of IBQ allocation occurs, there could be a reduction in target species landings with an associated reduction in revenue of approximately $7,574,590 total, or $56,108 per vessel (135 vessels).

The precise impacts of the IBQ Program are difficult to predict due to the variability of bluefin distribution as well as the potential range of fishing behaviors (and business strategies) of vessels in response to the new regulations. In order to reduce the likelihood of interactions, vessel operators may have to pursue new strategies including communication with other pelagic longline operators regarding the known locations of bluefin, modifications to fishing time, location, and technique, and use of alternative gears. In conjunction with these strategies, leasing additional quota may be necessary. The preferred IBQ Program includes the requirement that the relevant vessel have a permit as of August 21, 2013, which reduced the number of eligible vessels, and therefore will slightly increase the amount of quota share per vessel. Due to the difficulty of predicting the precise impacts of the preferred IBQ Program, NMFS may, as the fishery adjusts to the new system, need to consider providing additional quota to the Longline category in order to increase the amount of quota available to individual vessels, thereby balancing the need to have an operational fishery with the need to reduce bluefin bycatch in the fishery. During the preferred alternative's three-year formal review of the IBQ system, NMFS will consider any structural changes to the program necessary.

The pelagic longline fishery is an incidental bluefin fishery unlike the directed General category handgear fishery, and retention limits and other management measures are different. The preferred alternatives in Amendment 7 would implement a regulatory system that would mitigate the effects of the different restrictions among the different permit categories.

Comment 84: Some commenters urged NMFS to allocate equal shares of bluefin quota to all eligible vessels, for multiple reasons. Equal shares would avoid the use of historical logbook data; would reduce potential negative feelings among permit holders with different amounts of allocation; and would provide higher quota allocations for some vessels than under the proposed method. Additionally, a commenter noted that it may not be necessary to consider the amount of target catch in the quota share formula (and provide more quota to vessels catching more target catch) because larger fishing operations are better equipped financially to adapt to new regulations. Another commenter supported basing the allocation on target species landings and fishing effort, because higher effort is likely to result in more bluefin catch.

Response: NMFS carefully considered allocating quota shares on an equal basis, but prefers to implement the method as proposed, which will incorporate two metrics of equal weight: Designated species landings and the ratio of bluefin to designated species landings. While an equal share formula has some positive attributes, the overall merits of the preferred method would be greater. It is important to take into consideration the diversity of the pelagic longline fleet, maximize the potential for the success of the IBQ Program, and provide incentives for vessels to avoid bluefin tuna.

NMFS analyzed the pelagic longline logbook data on target catch and bluefin interactions, and for most vessels, there is positive correlation between the amount of target catch, and the number of bluefin tuna interactions. For most vessels, the more swordfish, yellowfin tuna, or other target species a vessel catches, the more bluefin tuna it interacts with. However, a few vessels (those responsible for the largest number of interactions) interact with large numbers of bluefin out of proportion with the amount of their target catch. Considering this historic pattern, basing one of the allocation formula elements on the amount of designated species landings would increase the likelihood that vessels would be allocated quota in relation to the amount of quota they may need to account for their catch of bluefin.

The second of the two elements (the ratio of bluefin interactions to designated species landings) is useful because it takes into consideration the fact that relatively few vessels (*i.e.*, about fifteen percent of the vessels) are responsible for about 80 percent of the

interactions with bluefin tuna. Because the preferred allocation formula would result in a lower allocation for vessels with a higher rate of historic interactions, it will provide a strong incentive for such vessels to make changes in their fishing practices to reduce their number of bluefin interactions. Vessels with historically high catches of target species and a low rate of interactions with bluefin will receive a larger quota share than vessels with either higher rates of bluefin interactions or lower amounts of target species.

Comment 87: Commenters expressed concern about whether vessel owners would be willing to lease quota to other vessels, given the low amounts of quota allocated to vessels, and concern about whether the cost of leasing will be affordable, especially for owners of small vessels. Other commenters did not support leasing because access to additional quota could enable vessels to target bluefin.

Response: The analysis of the preferred IBQ Program in the FEIS indicates that at a quota of 137 mt, 25 percent of vessels will need to lease additional quota in order to land their historical average amount of designated species if they do not change their behavior to reduce their historical rate of bluefin interactions. Therefore, a majority of vessels may have quota in excess of what is needed to account for their bluefin catch, and may have incentive to lease quota to other vessels. Notwithstanding the analysis, there is uncertainty regarding both the amount and price of quota that may be leased. A well-functioning leasing market, which enables quota to be leased by those who need it, will be a key factor in whether the preferred IBQ Program functions as intended.

Comment 92: Comments on NMFS' authority to close the pelagic longline fishery ranged from those who support closing the fishery in conjunction with a Longline category quota allocation of 8.1 percent, to those who said that the fishery should be closed only if there is unusually high catch of bluefin (and not when the quota is reached. Commenters noted the potential impacts of closures early in the year on the pelagic longline fishery, supporting businesses, consumers of the fish products, and future ICCAT recommendations.

Response: A closure of the pelagic longline fishery may have adverse direct and secondary economic impacts, the severity of which will depend upon how early in the year the closure occurred. Under the preferred IBQ Program, in which individual vessels may not fish with pelagic longline gear unless they have quota, it is not likely that NMFS will be required to close the fishery as a whole. However, individual vessels will be prohibited from fishing if they have not accounted for their catch or do not have the required minimum amount of quota allocation to depart on a pelagic longline trip. If, based on the best available data, NMFS estimates that the total amount of dead discards and landings are projected to reach, have reached, or exceed the Longline category quota, NMFS may prohibit fishing with pelagic longline gear. Similarly, if there is high uncertainty regarding the estimated or documented levels of bluefin catch, NMFS may close the fishery to prevent overharvest of the Longline category quota, or prevent further discarding of bluefin.

As described in many of the responses to comments, NMFS has designed Amendment 7 not only reduce dead discards and implement accountability, but also to provide flexibility for pelagic longline vessels fishing under the preferred IBQ Program restrictions, and flexibility in the quota system as a whole, to balance the needs of the pelagic longline fishery with the needs of the other quota categories.

Comment 94: NMFS received comments that supported electronic monitoring (*i.e.,* video camera and gear sensors), while other comments either expressed concern or opposed it. Comments supporting electronic monitoring indicated that it is not cost prohibitive, that it would allow NMFS to ground-truth other data, and that it supports accountability and enforcement. Those opposed to electronic monitoring said that it is cost prohibitive, an invasion of privacy, and is redundant with existing information. Some comments expressed concern about the functionality of a system, considering the issues experienced with some VMS functionality, and the ability to identify the difference between bigeye and bluefin tuna using video cameras. Implementation using a pilot scale was suggested, which would allow time to set up a functioning infrastructure. Expansion of electronic monitoring to other categories with dead discards was also suggested.

Response: The preferred measures would establish requirements to monitor dead discards for all commercial user categories to better achieve the ICCAT requirement to account for sources of bluefin tuna fishing mortality and to better monitor the fishery for bluefin accounting purposes domestically. The Purse seine category would be required to report dead discards via VMS, and hand gear fisheries (General, Harpoon, and Charter/headboat categories) would be required to report using an automated catch reporting system via internet or phone. Longline category vessels would be required to coordinate installation and maintain a video and gear electronic monitoring system that would record all catch and relevant data regarding pelagic longline gear deployment and retrieval. The purpose of video monitoring for the Longline category would be to provide a cost effective and reliable source of information to verify the accuracy of bluefin tuna interactions reported via VMS and logbooks. In many instances, the FEIS analysis found discrepancies between logbook data and observer data (considered to be highly accurate) reported for the same trip. The preferred electronic monitoring measure would support accurate catch data and the preferred bluefin tuna IBQ management measures, by providing a means to verify the accuracy of the counts and identification of bluefin reported by the vessel operator. The per-vessel cost of this gear is expected to be approximately $19,175 for purchase and installation (including maintenance costs and loan interest), or $3,835 per year over the five-year life of the equipment. NMFS has been able to procure funding for the initial installation of these systems. Variable costs are approximately $225 per trip, including data retrieval, fishing activity interpretation, and catch data interpretation. These costs are lower than the cost of increased observer coverage. The Southeast Fisheries Science Center estimates that observer deployment costs approximately $1,075 per sea day, which equates to approximately $9,675 per average nine day pelagic longline trip.

Video monitoring is currently used in several fisheries, and NMFS has funded over 30 pilot projects to further research on the use and effectiveness of electronic monitoring, including research on the accuracy of finfish identification. These studies provide evidence that properly deployed and maintained video monitoring camera systems provide effective data for accurately identifying large pelagic species. NMFS white papers on electronic monitoring are available at the following Web address: *http://www.nmfs.noaa.gov/sfa/reg_svcs/Councils/ccc_2013/K_NMFS_EM_WhitePapers.pdf.* NMFS would take into account the time required for owners to outfit their vessels with newly required equipment when establishing the dates

of required effectiveness for electronic monitoring.

Comment 99: NMFS received a comment that NMFS should consider the fact that transfers of quota under the measure that would provide more flexibility for General category quota transfers will have the effect of moving quota from the traditional Northeast fishery to the mid-Atlantic and South; in other words that Alternative E1c will negatively impact Northeast fishermen. One commenter stated that NMFS should take no action on General category subquotas (Alternative E1a). Another commenter stated that NMFS should establish 12 equal monthly subquotas (Alternative E1b).

Response: NMFS acknowledges the concerns that quota distribution may impact temporal fishing opportunities and considered these factors in selecting preferred alternatives. Note that current regulations do not preclude General category and HMS Charter/Headboat category vessels from traveling from one area to another. In fact, many vessels travel from the northeast and mid-Atlantic states to participate in the winter fishery that occurs largely off North Carolina. NMFS would continue to consider the regulatory determination criteria regarding inseason quota transfers in an attempt to balance reasonable opportunity to harvest quota with other considerations, including variations in bluefin distribution and availability, among others. The preferred alternative would provide additional fishing opportunities within the General category quota while acknowledging the traditional fishery. Division of the quota equally by month was not preferred because the potential negative social and economic impacts outweigh the positive impacts. The negative aspects of this alternative include the potential for gear conflicts and a derby fishery, as well as the potential for the historical geographic distribution of the fishery to be dramatically altered. Although this alternative would provide some stability to the fishery by establishing a known amount of quota that would be available at the first of each month, if catch rates are high in the early portion of the month, these quotas could be harvested rapidly and may lead to derby style fisheries on the first of each month. Additionally, if catch rates are high and subquotas are reached quickly, NMFS under this alternative may have to implement multiple closures notices throughout the year.

Comment 101: NMFS received comments on allocating a portion of the trophy south subquota to the Gulf of Mexico (preferred Alternative E3b), including that NMFS should not reduce the trophy south subquota; the reduction would negatively affect charter captains in the mid-Atlantic and South Atlantic areas; and that the change in allocation would increase landings of spawning bluefin in the Gulf of Mexico. Other commenters stated that NMFS should change the division of subquota, but not split the subquota equally between the southern area and the Gulf of Mexico; or that NMFS should allocate 10% or 17% of the trophy south subquota to the Gulf of Mexico. The Mid-Atlantic Fishery Management Council commented that NMFS should take no action on this issue (Alternative E3a) and that Alternative E3b would lead to an unreasonably small recreational bluefin trophy quota for the northern region.

Response: Under the preferred alternative, the trophy subquota would be divided to provide 33 percent each to the northern area, the southern area outside the Gulf of Mexico, and the Gulf of Mexico. The objective of this alternative is to provide reasonable fishing opportunities for recreational vessels in the Atlantic and GOM, reduce discards, and account for incidentally caught bluefin. A separate subquota allocation for the GOM would improve the equity of the trophy-sized fish allocation by increasing the likelihood that there would be trophy quota available to account for incidental catch of bluefin in that area (while still providing incentives not to target bluefin). An equal 33 percent division among the three areas would provide the most equitable trophy subquota allocation. This preferred measure would not affect the amount of Trophy subquota available to the northern area.

Description and Estimate of the Number of Small Entities to Which the Final Rule Will Apply

Section 604(a)(3) of the RFA requires a description and estimate of the number of small entities to which the final rule would apply. This final rule is expected to directly affect commercial and for-hire fishing vessels that possess an Atlantic Tunas permit or Atlantic HMS Charter/Headboat permit. In general, the HMS Charter/Headboat category permit holders can be regarded as small entities for RFA purposes. HMS Angling (Recreational) category permit holders are typically obtained by individuals who are not considered small entities for purposes of the RFA. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including fish harvesters. A business involved in fish harvesting is classified as a "small business" if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts (revenue) not in excess of $20.5 million for all its affiliated operations worldwide (NAICS code 114111, finfish fishing). NAICS is the North American Industry Classification System, a standard system used by business and government to classify business establishments into industries, according to their economic activity. The United States government developed NAICS to collect, analyze, and publish data about the economy. In addition, the SBA has defined a small charter/party boat entity (NAICS code 487210, for-hire) as one with average annual receipts (revenue) of less than $7.5 million. The SBA recently modified its definitions of small businesses, and therefore the definitions were slightly different between the proposed and final rules (79 FR 33647; June 12, 2014).

The average annual revenue per active pelagic longline vessel is estimated to be $187,000 based on the 170 active vessels between 2006 and 2012 that produced an estimated $31.8 million in revenue annually. The maximum annual revenue for any pelagic longline vessel during that time period was less than $1.4 million, well below the SBA size threshold of $20.5 million in combined annual receipts. Therefore, NMFS considers all Tuna Longline category permit holders to be small entities. NMFS is unaware of any other Atlantic Tunas category permit holders that potentially could earn more than $20.5 million in revenue annually. Therefore, NMFS considers all Atlantic Tunas permit holders subject to this action to be considered small entities. NMFS is also unaware of any charter/headboat businesses that could exceed the SBA receipt/revenue thresholds for small entities.

The preferred alternatives would apply to the 4,059 Atlantic Tunas permit holders based on an analysis of permit holders in October 2013 (NMFS 2014). Of these permit holders, 252 have Longline category permits, 14 have Harpoon category permits, 7 have Trap category permits, 5 have Purse Seine category participants, and 3,783 have General category permits. The preferred alternatives would also impact HMS Angling category and HMS Charter/Headboat category permit holders. In 2013, 3,968 vessel owners obtained HMS Charter/Headboat category permits. It is unknown what portion of these permit holders actively participate in Atlantic HMS fishing or fishing services for recreational anglers. NMFS

has determined that the preferred alternatives would not likely directly affect any small government jurisdictions defined under RFA. More information regarding the description of the fisheries affected, and the categories and number of permit holders, can be found in Chapter 3 of the FEIS.

Description of Projected Reporting and Record-Keeping Requirements

Section 604(a)(4) of the RFA requires a description of the projected reporting, record-keeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which would be subject to the requirements of the report or record. Several Amendment 7 measures include reporting, record-keeping, and compliance requirements that require a new Paperwork Reduction Act (PRA) filing, and some of the preferred alternatives would modify existing reporting and record-keeping requirements, and add compliance requirements. NMFS estimates that the number small entities that would be subject to these requirements would include the Longline category (252), Charter/Headboat category (3,968), General category (3,783), Harpoon category (14) and Purse Seine category (3), based on the number of permit holders in commercial bluefin tuna fishing categories in 2013. The following section describes the projected reporting, record-keeping and other compliance requirements of the final rule as required.

Area-Based Alternatives

Currently, pelagic longline vessels must have agency approved E–MTU VMS units installed and must use them to hail in and out of port prior to and at the end of a fishing trip. The Area-based preferred alternative that would grant conditional access (based on performance metric criteria) to the Modified Cape Hatteras GRA (Alternative B 1d) would require that pelagic longline vessels authorized to fish in the area also submit daily reports to NMFS via E–MTU VMS summarizing their fishing effort and bluefin tuna catch and harvest. This is a slightly modification of the preferred alternative in the DEIS and in the proposed rule, but it has the same additional reporting burden, which is expected to take five minutes per report/day at a cost of $0.12 per report. This data will allow NMFS to determine whether continued access to the areas is warranted based on bluefin tuna interaction rates, among other things.

NMFS would calculate performance metrics for each pelagic longline vessel to determine whether they qualify to gain access to the Cape Hatteras GRA. These metrics would be based on the vessel's historical catch and reporting compliance. Pelagic longline permit holders would be permitted to appeal their performance metrics by submitting a written request, indicating the reason for the appeal, and providing supporting documentation (*e.g.*, copies of landings records, permit ownership, etc.). Each appeal request is expected to take approximately two hours to compile.

Quota Control Alternatives

The preferred alternatives for bluefin tuna quota controls include several reporting requirements necessary to implement IBQs for pelagic longline vessels. Some of these requirements are also addressed under the alternatives in other sections of this document.

The alternatives in this section include options for assigning IBQ shares. Preferred alternative C2j would implement a process for individuals to appeal their IBQ share. Individuals would be required to submit a written request for an appeal, and include the reason for appeal and supporting documentation. The reporting burden associated with each appeal, those submitted to the HMS Management Division or to the National Appeals Office, are expected to be approximately two hours.

Preferred alternative C2c2 would authorize transfer of quota among eligible Atlantic tunas Longline permit holders and Purse Seine category participants. To support tracking of IBQ transfers among IBQ participants and establish a tracking system for purchase of bluefin tuna under the IBQ System, preferred alternative C2e1 would require IBQ participants to track and execute transfers of IBQ allocation via the IBQ System. To access the IBQ System eligible users must be able to access the system electronically. IBQ System users will need some basic computer and Internet skills to input information for bluefin tuna trade into the IBQ System. The record-keeping and reporting burden for permit holders is expected to be approximately 15 minutes per trade. The IBQ System will also require interaction with federal bluefin tuna dealer permit holders that purchase bluefin from pelagic long line vessels; however, electronic dealer reporting for bluefin tuna purchases was previously analyzed and approved by NMFS in the 2006 Consolidated HMS FMP rulemaking (71 FR 58058, October 2, 2006) and thus the rule effectively does not impose a new requirement for dealers in this category. An IBQ System for bluefin demands a high degree of accountability for providing accurate data on catch and harvest. Preferred alternative C2g2 (same as D2b) would require pelagic longline vessels to install an electronic monitoring system, including video cameras and associated recording and monitoring equipment, in order to record all longline catch and relevant data regarding pelagic longline gear deployment and retrieval. Data collected during each fishing trip would be required to be provided to NMFS, within a specified time frame after each trip. This alternative would require both fixed and variable costs over the service life of each camera installed onboard. The per-vessel cost of this gear is expected to be approximately $19,175 for purchase and installation (including maintenance costs and loan interest), or $3,835 per year over the five-year life of the equipment. NMFS has been able to procure funding for the initial installation of these systems. Variable costs are approximately $225 per trip, including data retrieval, fishing activity interpretation, and catch data interpretation.

Preferred alternative C2g1 (same as D1b) would require pelagic longline vessels to use their E–MTU VMS to submit daily reports of bluefin tuna catch and harvest and fishing effort. Purse seine vessels would be required to purchase and install E–MTU VMS units, and submit daily reports of catch, harvest, and effort as well. This alternative would provide more timely data as required by the IBQ system than the current pelagic longline logbook program and dealer reporting requirements. As noted above, the additional reporting burden for the VMS reports is 5 minutes per report/day and $0.12 per report. The cost of installing E–MTU VMS is $3,300 per vessel and daily position reports cost approximately $1.44 per day.

Several alternatives include additional compliance requirements without additional reporting. Preferred alternative C21.2b would require mandatory retention of all legal-sized dead bluefin tuna caught on pelagic longline gear. Preferred alternative C4b would allow NMFS to prohibit fishing using pelagic longline gear once the bluefin tuna quota is reached. Conversely, preferred alternative C21.1b would relieve certain compliance requirements by repealing target catch requirements for pelagic longline vessels.

Lastly, one of the preferred alternatives would have an additional reporting requirement, but would occur via a future action under separate rulemaking. As required by the MSA, a cost recovery program for management

and enforcement costs associated with the preferred IBQ Program (Preferred alternative C2i) will be addressed via a subsequent regulatory action, at which time NMFS will update/modify current record-keeping and compliance requirements. This action may require new PRA filings, but does not at this time.

Enhanced Reporting Measures

Several preferred alternatives are identified as measures to enhance reporting for bluefin tuna. Three of these include the VMS requirements (C2g1 and D1b), and electronic monitoring of the Longline category (C2g2 and D2b), discussed above. The last is the preferred alternative to require automated catch reporting for General, Harpoon, and Charter/Headboat permit categories (D3b). This alternative would require individuals with those vessel permits to report their catch (*i.e.*, landings and discards) after each trip using an automated system such as a Web site or phone recording system. NMFS estimates that each report will take approximately 5 minutes. Based on previous years' landings, NMFS estimates that the total annual reporting burden will be approximately 607 hours and could affect approximately 8,226 permit holders.

Other Measures

The other measures implemented by this rule would not increase reporting or compliance requirements.

Description of Steps Taken To Minimize Significant Economic Impacts of This Action

Section 604(a)(5) of the RFA requires a description of the steps NMFS has taken to minimize the significant economic impacts on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and the reason that each one of the other significant alternatives to the rule considered by the Agency which affected small entities was rejected. The impacts NMFS has identified and the steps NMFS has taken to minimize them are discussed below and in the FEIS. One of the requirements of an FRFA is to describe any alternatives to the preferred alternatives which accomplish the stated objectives and which minimize any significant economic impacts. These impacts and the steps taken to minimize them are discussed below and in Chapters 4 and 5 of the FEIS. Additionally, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of "significant" alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
2. Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
3. Use of performance rather than design standards; and,
4. Exemptions from coverage of the rule for small entities.

In order to meet the objectives of this Amendment, consistent with all legal requirements, NMFS cannot exempt small entities or change the reporting requirements only for small entities because all the entities affected are considered small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. Under the third category, "use of performance rather than design standards," NMFS considers Alternative B 1c "Cape Hatteras Gear Restricted Area with Access based on Performance", Alternative B 1d "Modified Cape Hatteras Pelagic Longline Gear Restricted Area with Access Based on Performance", Alternative C 2 "IBQs Based on Designated Species Landings and the Ratio of Bluefin Catch to Designated Species Landings", and B 3b "Limited Conditional Access to Closed Areas using Pelagic Longline Gear Based on Performance Criteria" to all be alternatives that use performance standards. As described below, NMFS analyzed several different alternatives and provides the rationale for identifying the preferred alternatives to achieve the desired objective.

NMFS considered five different categories of potential bluefin management measures, each with its own range of alternatives that would meet the objectives of the Magnuson-Stevens Act and the 2006 Consolidated HMS FMP. The first category, allocation alternatives, covers four main alternatives that address various quota reallocation strategies. The second category of alternatives, area based alternatives, explores various gear restricted areas, gear measures, and access to closed areas using pelagic longline gear. The third category of alternatives, bluefin tuna quota controls, covers four main alternatives, which include IBQs, regional and group quotas, and closure of the pelagic longline fishery. The fourth category of alternatives, enhanced reporting measures, covers six main alternatives, which include VMS requirements, electronic monitoring of the Longline category, automated catch reporting, deployment of observers, logbook requirements, and expanding the scope of the Large Pelagics Survey. The fifth category of alternatives, other measures, covers seven main alternatives that address other Tunas permit categories besides Longline and other tuna quotas. The expected economic impacts of the different alternatives considered and analyzed are discussed below.

The potential impacts that these alternatives may have on small entities have been analyzed and are discussed in the following sections. The economic impacts that would occur under these preferred alternatives were compared with the other alternatives to discuss how the economic impacts to small entities were minimized while still accomplishing the stated objectives of this rule.

Allocation Alternatives

These alternatives would either modify the base allocations (percentages of the U.S. quota designated to particular for bluefin quota categories) and remain the same until and if changed by future amendment, or would set up a regulatory mechanism for modifying the quotas annually or in certain years based on defined criteria.

Alternative A 1—No Action

The No Action alternative would make no changes to the current percentages that each quota category is allocated (General: 47.1 percent; Harpoon: 3.9 percent; Purse Seine: 18.6 percent; Longline: 8.1 percent; Trap: 0.1 percent; Angling: 19.7 percent; Reserve: 2.5 percent). Dead discards would continue to be accounted for separately from the quota allocations through the annual specification process.

In the short-term, minor to moderate direct adverse economic impacts are likely to be limited to the Longline category due to quota shortages. In 2012, NMFS projected that the Longline category was likely to fully harvest their allocated quota before the end of the fishing year, and closed the southern area on May 29, 2012 (77 FR 31546) and the northern area on June 30, 2012 (77 FR 38011, June 26, 2012). In 2013, the Longline category northern and southern areas were closed on June 25 (78 FR 36685) because the adjusted quota had been reached. In the long-term, there could be additional minor to moderate direct adverse economic impacts if other quota categories are closed early in the fishing year.

Alternative A 2—Codified Reallocation

The Codified reallocation alternative (Preferred) would reallocate quota and result in increased bluefin quota for the Longline category, and would therefore alleviate some of the current challenges associated with the domestic quota system.

This alternative would codify a quota category increase of 62.5 mt whole weight to the Longline category reflecting the historical 68 mt dead discard allowance and the current allocation percentages. All of the categories, including the Longline category, would contribute to the 68 mt historical allowance, with a net increase of 62.5 to the Longline category after its share of the deduction, (*i.e.*, based on the current 8.1 percent allocation, the Longline category portion of the 68 mt is 5.5 mt; 68 mt–5.5 mt equals 62.5 mt, hence an increase of 62.5 mt. This alternative results in a net increase of 62.5 mt for the Longline category, which would increase the potential revenue from bluefin for the Longline category by approximately $11,269 per permit holder per year. The General category would face a potential reduction in the maximum revenue from bluefin of approximately $850 per permit holder per year. The Harpoon category would face a potential reduction in the maximum revenue from bluefin of approximately $2,409 per permit holder per year. The Purse Seine category could face a potential reduction in the maximum revenue from bluefin of approximately $107,627 per permit holder per year. Although the magnitude of revenue loss appears to be high for the Purse Seine category, this alternative actually would likely have minor adverse economic impacts on Purse Seine fishermen since landings in this category have recently been very low. This alternative minimizes economic impacts by reallocating only a relatively small portion of each category's quota to the Longline category.

Alternative A 2b (Reallocation Incorporating Recent Catch Data) would revise the quota allocation percentages for all categories, basing the new allocation on both the current codified allocation (50%) and recent catch (50%) as applicable to each quota category. Reallocating the quota based on recent catch data would result in a 83.56% increase in the Longline category quota and an increase for the Angling category of 47.1%. However, this reallocation alternative would result in a decrease in the quotas of the General, Harpoon, Purse Seine, Trap, and Reserve categories of 10.85%, 15.56%, 49.01%, 55.56%, and 48.05%, respectively. Revising the quota allocations for all categories to reflect recent catch would increase the potential revenue from bluefin for the Longline category by approximately $11,305 per permit holder per year. The General category could face a potential reduction in the maximum revenue from bluefin of approximately $1,254 per permit holder per year. The Harpoon category could face a potential reduction in the maximum revenue from bluefin of approximately $4,996 per permit holder per year. The Purse Seine category could face a potential reduction in the maximum revenue from bluefin of approximately $713,558 per permit holder per year.

Alternative A 2c (Reallocation from Purse Seine to Longline Category) would reallocate two-fifths (40 percent) of the current Purse Seine category quota to the Longline category and would result in 91.84% increase in the Longline category quota and a decrease the Purse Seine quota by 39.99%. The permanent reallocation of two-fifths of the Purse Seine category to the Longline category would increase the potential revenue from bluefin for the Longline category by approximately $12,387 per permit holder per year. The Purse Seine category could face a potential reduction in the maximum revenue from bluefin of an equivalent $582,202 per permit holder per year. The other bluefin quota categories would not be impacted by this alternative.

Alternative A 3—Annual Reallocation of Bluefin Quota From Purse Seine Category

Annual reallocation Alternatives A 3a and A 3b would reallocate anticipated unused quota from the Purse Seine category to other quota categories or would allocate to the Purse Seine category in proportion to the number of permitted vessels (respectively).

Under alternative A 3a, the preferred alternative, 25 percent of the Purse Seine category bluefin quota would be guaranteed to be available to the five historically permitted fishery participants (permit holders) in that category, but beyond that, the bluefin quota would be based on the previous year's landings and dead discards. Based on a formula, quota may be reallocated from the Purse Seine category to the Reserve category annually. The allocation formula is designed to allocate a minimum level of quota to permitted fishery participants, as well as enable quota to increase over successive years, in order to avoid being too restrictive. Note that NMFS would still have the regulatory authority to transfer quota inseason to or from any fishing category to or from the Reserve, and could continue to transfer any amount of quota inseason, even if purse seine vessels receive the minimum amount of quota (25 percent) at the start of the season. In recent years, little of the Purse Seine category quota has been landed. If that continues into the future, under alternative A 3a, the Purse Seine quota could be reduced by 75 percent. The 23.8 mt associated with that reduction would reduce the maximum revenue from bluefin that the purse seine vessel could land by $403,000 annually. However, given the recent bluefin landings history of the purse seine fleet, it is unlikely that future bluefin landings would be constrained substantially by this reduction and allocations would be re-evaluated on an annual basis. Therefore, alternative A 3a would likely only result in minor direct adverse short-term economic impacts to permitted Purse Seine vessels. Other categories would benefit from the potential of increased revenue, and this alternative would increase predictability in the fishery. This alternative minimizes economic impacts by providing a means to optimize quota utilization and account for dead discards, enhance quota flexibility in a predictable manner, as well incorporate a system for Purse Seine fishery participants to be allocated their total base quota percentage if they are consistently active in the fishery.

Under alternative A 3b (Annual Purse Seine Allocation Commensurate with the Number of Purse Seine Vessels), NMFS would make Purse Seine category quota available annually to that category based on the number of active Purse Seine vessels and would reallocate the remainder to the Reserve category. An active Purse Seine vessel would be defined as a vessel with a valid Purse Seine category permit, which has requested and received an allocation in accordance with the regulations (§ 635.27(a)(4)), and is capable of fishing purse seine gear (defined at § 635.21(e)(vi)) to harvest Atlantic bluefin tuna. The net result would be that only those Purse Seine category permit holders with active vessels would receive Purse Seine quota, and individually they would be allocated one fifth of the overall Purse Seine base quota, acknowledging the preferred codified allocation alternative (Alternative A 2a), under which the Purse Seine base quota would be 159.1 mt. The economic impacts of this alternative would be similar to those under alternative A 3a. Alternative A 3b would also likely only result in minor

direct adverse short-term economic impacts resulting from the loss of potential revenue if current bluefin fishing levels remain the same.

Alternative A 4—Modifications to Reserve Category

Under the alternative A 4a, the No Action alternative, there would be no changes to the allocation to the Reserve category or the determination criteria that are considered prior to making any adjustments to/from this category. This alternative would not impact small entities. The Reserve category would be allocated the current 2.5 percent of the U.S. annual quota, and NMFS could allocate any portion of the Reserve category quota for inseason or annual adjustments to any other quota category provided NMFS considered the current determination criteria and other relevant factors first.

Alternative A 4b (Modify Reserve Category), the preferred alternative, would increase the amount of quota that may be put into the Reserve category from several sources and expand the potential uses of Reserve category quota. Specifically, it would potentially increase the Reserve category quota beyond the current baseline allocation of 2.5 percent and broaden the determination criteria to be considered in making adjustments to/from the Reserve category. This could result in moderate beneficial economic impacts if unused quota from a previous year could be reallocated to the Reserve category to potentially offset any overharvests in another category, consistent with ICCAT recommendations on carry-forward of unharvested quota.

Area Based Alternatives

Alternative B 1—Gear Restricted Areas

Under alternative B 1, NMFS considered a range of GRA alternatives from maintaining existing pelagic longline closures (the no action alternative) to a year-round GRA of the entire Gulf of Mexico EEZ (west of 82° longitude) in order to reduce interactions with bluefin tuna.

Alternative B 1a, the No Action Alternative, would result in the status quo regarding GRAss. Although the current pelagic longline closed areas would remain effective, the data indicate that large numbers of interactions of pelagic longline gear with bluefin occur in consistent areas during predictable time periods, which are outside of the current closed areas. The No Action alternative would therefore not reduce dead discards. The magnitude of the discards in the pelagic longline fishery is likely to stay the same or increase under the No Action alternative, without implementation of a new GRA. This could result in moderate long-term adverse economic impacts when the Longline category exceeds its quota earlier in the fishing year because of dead discards and is required to shut down.

Alternative B 1b would define a modified rectangular area off Cape Hatteras, North Carolina, and prohibit the use of pelagic longline gear in that area annually during the five-month period from December through April. Other gear types authorized for use by pelagic longline vessels, such as buoy gear, green-stick gear, or rod and reel, would be allowed. This region off North Carolina contains seasonally consistent concentrations of bluefin and catches by the pelagic longline fleet. Logbook and observer data indicate that historically there have been relatively high catches and catch rates of bluefin by pelagic longline vessels in this region. The specific time and area of the Cape Hatteras GRA represents a time and area combination likely to result in reduced bluefin interactions based on past patterns of interactions. This alternative is expected to have moderate short and long-term direct adverse economic impacts on 50 vessels that have historically fished in the Cape Hatteras GRA during the months of December through April. The average annual revenue per vessel made in the gear restricted area is approximately $28,000 annually during the restricted months assuming that fishing effort does not move to other areas. However, it is likely that some of the vessels that would be impacted by this gear restricted area would be able to redistribute their effort to other fishing areas. NMFS estimated that if a vessel historically made less than 40 percent of their sets in the GRA, it would likely redistribute all of its effort. If a vessel made more than 40 percent, but less than 75 percent of its sets in the GRA, it would likely redistribute 50 percent of its effort impacted by the gear restricted area to other areas. Finally, if a vessel made more than 75 percent of its sets solely within the gear restricted area, NMFS assumed it would not likely shift its effort to other areas. Based on these redistribution assumptions, the net impact of the Cape Hatteras GRA on fishing revenues after redistribution of effort is estimated to be $17,900 per year.

Under Alternative B 1c (Cape Hatteras Pelagic Longline GRA with Access based on Performance), NMFS would annually review pelagic longline vessel performance using three performance metrics, and based on that review, authorize some vessels fishing with pelagic longline gear to have access to the Cape Hatteras GRA. As described in more detail in Chapter 2, the performance metrics are: (1) Level of bluefin interactions/avoidance; (2) observer program participation; and (3) logbook submissions. NMFS would notify vessel owners by mail whether or not they are authorized to fish in the area. This alternative would use the same area off Cape Hatteras, North Carolina, as in Alternative B 1b, and would define criteria for access by HMS permitted vessels fishing with pelagic longline gear during the five-month period from December through April. Vessels that are determined by NMFS to have a relatively low rate of interactions with bluefin based on past performance, and that comply with reporting and monitoring requirements would be allowed to fish in the area using pelagic longline gear. Vessels that have not demonstrated their ability to avoid bluefin would not be allowed to fish with pelagic longline gear in this area; or if a vessel has demonstrated its ability to avoid bluefin, but has had poor record of compliance with reporting and monitoring requirements, it would not be allowed to fish with pelagic longline gear in this area from December through April. Individual vessel data would be evaluated annually for the purpose of determining access, and results would be communicated to the individual permit holders via a permit holder letter. This evaluation would be based on the most recent complete information available in order to provide future opportunities and accommodate changes in fishing behavior, both positively and negatively, based on performance.

Based on the proposed performance criteria, NMFS determined that, of 161 active vessels in the entire pelagic longline fleet, 50 vessels fished in the Cape Hatteras GRA or buffer region. Of these 50 active vessels, 16 vessels that fished in the Cape Hatteras GRA or buffer region did not meet the criteria for access based on their inability to avoid bluefin tuna, and/or compliance with POP observer and logbook reporting requirements. The average annual revenue made in the GRA by these 16 vessels is approximately $29,000 per vessel during the restricted months. However, it is likely that some of the vessels that would be impacted by this gear restricted area would be able to redistribute their effort to other fishing areas. The net impact of Alternative B 1c on fishing revenues after redistribution of effort is estimated

to be $19,000 per vessel per year for those 16 vessels.

Alternative B 1d (Modified Cape Hatteras Pelagic Longline GRA with Access Based on Performance; Preferred), would delineate a gear restricted area off Cape Hatteras, North Carolina and prohibit the use of pelagic longline gear in the area annually during the five-month period from December through April. Access to the GRA would be evaluated annually for each permitted vessel in the pelagic longline fleet using the same performance metrics discussed under Alternative B 1c.

NMFS proposed a Cape Hatteras GRA for the months of December through April during which time vessels would be prohibited from fishing with pelagic longline gear in the defined area, with the exception of vessels granted access based upon performance criteria. Based on public comment, NMFS re-analyzed the spatial and temporal configurations of the Cape Hatteras GRA, and instead is implementing a modified gear restricted area during the same months (December through April), but of a slightly different configuration than proposed. The total area of the Modified Cape Hatteras GRA being implemented is smaller than that of the proposed Cape Hatteras Gear Restricted Area, due to the modification of the southeastern region of the GRA. Specifically, the southeastern corner as proposed was a ninety degree angle, but this final rule connects the southwestern corner to a more northerly point on the eastern boundary of the Cape Hatteras GRA, eliminating a triangular shaped area from the southeast region of the Gear Restricted Area. The shape of the Modified Cape Hatteras GRA as implemented will minimize the likelihood that pelagic longline gear set south of the GRA will drift into the GRA due to the prevailing direction of currents. As a result of these analyses, and considerations, NMFS has modified the preferred alternative to a gear restricted area during the same months (December through April), but with a slightly different configuration.

NMFS determined that only 14 vessels that fished in the Modified Cape Hatteras GRA would not meet the criteria for access based on their inability to avoid bluefin tuna, and/or compliance with POP observer and logbook reporting requirements. The average annual revenue from fishing sets made in the GRA by these 14 vessels is approximately $22,000 per vessel during the restricted months based on past fishing patterns from 2006–2012. However, it is likely that some of the vessels that would be impacted by this alternative's implementation of the GRA would redistribute their effort to other fishing areas. The net impact of Alternative B 1d on fishing revenues after redistribution of effort is estimated to be $15,000 per vessel per year for those 14 vessels.

This alternative is as effective at reducing dead discards as the originally-proposed Cape Hatteras GRA but it minimizes economic impacts to the extent practicable, consistent with the objectives of Amendment 7. The modified alternative thereby strikes a better balance between reducing dead discards of bluefin and continued operation of the pelagic longline fleet in the Atlantic. Therefore, NMFS prefers this modification (*i.e.*, shaving off the southeast corner of the restricted area) to balance environmental, ecological, and economic impacts of the alternative. This alternative minimizes economic impacts by providing access to vessels if certain parameters are met and because the time and area of the GRA were set based on consideration of bluefin interactions as well as economic impacts in order to optimize the design to achieve the objectives.

Alternative B 1e would allow vessels with an Atlantic Tunas Longline permit to fish under the rules/regulations applicable to the General category as they pertain to targeting bluefin using non pelagic longline-gear (gear authorized under the General category, including rod and reel, handline, harpoon, etc.), in the area defined as the Cape Hatteras GRA during the time of the restriction (December through April), when the General category fishery is open. The bluefin landed with authorized handgear would be counted against the General category quota. The amount of bluefin landings allowed under this alternative would be limited by the available General category subquotas for December and for January. Alternative B 1d would result in short-term, direct, minor, beneficial economic impacts for Longline category fishermen that otherwise would not be able to fish for bluefin in the Cape Hatteras GRA. It would result in short-term, direct, minor, adverse economic impacts for General category participants to the extent that any Longline category vessel landings of bluefin under General category rules results in the available subquota being met earlier than it would otherwise. A loss or gain of one fish is approximately $3,500. If a Longline category vessel chooses to fish with General category gear in the Cape Hatteras GRA versus outside the area with pelagic longline gear, the ability to land and sell bigeye, albacore, yellowfin, and skipjack from that area would result in short-term, direct, minor, beneficial economic impacts, although substantially less so than continuing to use longline gear, which accounts for a much larger proportion of catch of bigeye, albacore, and yellowfin tuna than does handgear. If other alternatives, such as annual reallocation from the Purse Seine category (A3a) or providing additional flexibility for General category quota adjustment (E1c) are implemented, adverse economic impacts for General category participants may be reduced.

Alternative B 1f would prohibit the use of pelagic longline gears in the GOM for 3 months each year. This alternative is expected to have moderate short and long-term direct adverse economic impacts on 69 vessels that have historically fished in the GOM EEZ during the months of March through May. The average annual revenue from fishing sets made in the GRA is approximately $26,000 per vessel during the closure months. Based on historical fishing patterns of vessels that fish in the OM, it is unlikely that effort will be redistributed into areas outside of this region.

Alternative B 1g would define a rectangular area in the GOM and prohibit the use of pelagic longline gear during the two-month period from April through May. NMFS tailored the Small GOM GRA to maximize the reductions in bluefin interactions while minimizing the area where pelagic longline gear use is restricted. This alternative is expected to have moderate short- and long-term direct adverse economic impacts on 36 vessels that have historically fished in the Small Gulf of Mexico GRA during April and May. The average annual revenue from fishing sets made in the GRA is approximately $7,500 per vessel during the restricted months. However, it is likely that some of the vessels that would be impacted by this gear restricted area would be able to redistribute their effort to other fishing areas within the GOM. The net impact of the Small GOM GRA on fishing revenues after redistribution of effort is estimated to be $2,600 per vessel per year.

Alternative B 1h would prohibit the use of pelagic longlines in the same area as in the Gulf of Mexico EEZ GRA (*i.e.*, anywhere in the Gulf of Mexico), year-round. This alternative is expected to have moderate short- and long-term direct adverse economic impacts on 75 vessels that have historically fished in the Gulf of Mexico EEZ. The average annual revenue from fishing in the GRA is approximately $102,000 per vessel.

Alternative B 1i, a preferred alternative, would establish modified GRAs in the central GOM that would prohibit the use of pelagic longlines from April through May. This alternative is based upon public comments on the Small GOM GRA, which was the preferred alternative in the DEIS. The total area of the Modified Spring GOM GRA is larger than that of the Small GOM GRA. The Spring Gulf of MexicoGRAs are comprised of two separate areas: An area based on the Small GOM GRA preferred in the DEIS, but extended to the east and reduced in size on the western and northern borders, and a second area that is adjacent to the southern border of the Desoto Canyon Closed Area's northwestern 'block.' NMFS will also conduct a three-year review to determine the effectiveness of the Modified Spring GOMGRAs during the review of the IBA program and will consider any changes at that time as appropriate. This alternative is expected to have moderate short and long-term direct adverse economic impacts on 49 vessels that have historically fished in the Modified Spring GOM GRAs during April and May. The average annual revenue from fishing sets made in the gear restricted area is approximately $11,000 per vessel during the restricted months. However, it is likely that some of the vessels impacted by these GRAs would be able to redistribute their effort to other fishing areas within the GOMand therefore reduce any losses. The net impact of the Modified Spring GOM GRAs on fishing revenues after redistribution of effort is estimated to be $5,700 per vessel per year. The economic impacts of this alternative were minimized through the iterative design of the GRA. NMFS carefully evaluated the costs and benefits associated with this GRA, and determined that the specific time and area achieves a balance between a reduction in bluefin dead discards, protection of the GOM Spawning stock, and continued operation of the pelagic longline fleet in the GOM.

Alternative B 1j, a preferred alternative, would allow HMS vessels that possess bottom or pelagic longline gear on board to transit the closed areas and GRAs if they remove and stow the gangions, hooks, and buoys from the mainline and drum. The hooks would not be allowed to be baited. Allowing pelagic and bottom longline vessels to transit closed and GRAs after removing and stowing gear would result in direct short- and long-term beneficial economic impacts by potentially reducing fuel costs and time at sea for vessels that need to transit the closed or restricted areas. Allowing transit through these areas could also potentially improve safety at sea by allowing more direct transit routes and reducing transit time, particularly during inclement weather. More direct transit routes and reduced transiting time minimize economic impacts of the closed and restricted areas.

Alternative B 2—Gear Measures

Alternative B 2a, the preferred No Action alternative, would not change current authorized gear requirements (with respect to the use of buoy gear and associated restrictions on possession of bigeye, albacore, yellowfin, and skipjack tunas (BAYS) and bluefin) applicable to those vessels with an Atlantic Tunas Longline category permit and either a Swordfish Directed or Swordfish Incidental permit. Currently, vessels with an Atlantic Tunas Longline category permit must also have both a Swordfish Directed or Incidental permit, and a Shark Directed or Incidental permit. There are no economic impacts associated with this "no action" alternative. Alternative B 2b would authorize vessels with a Swordfish Incidental permit to fish with buoy gear, except vessels fishing in the East Florida Coast Pelagic Longline Closed Area. Under this alternative, vessels would still be limited to 35 buoys. The rationale for this alternative is to provide increased flexibility and encouragement for pelagic longline vessels to utilize gears other than pelagic longline to maintain and enhance fishing opportunities. This would result in short- and long-term direct beneficial economic impacts by providing greater flexibility in the gear type that can be used and also by reducing the need to acquire a different permit to use buoy gear. Alternative B 2c would allow vessels with an Atlantic Tunas Longline category permit and the Swordfish Directed or Incidental permit to retain BAYS and bluefin when fishing with buoy gear. The rationale for this alternative is the same as for Alternative B 2b: To provide increased flexibility and encouragement for pelagic longline vessels to utilize gears other than pelagic longline to maintain and enhance fishing opportunities in the context of new restrictions that may be implemented by Amendment 7. This alternative would result in short- and long-term direct beneficial economic impacts by increase the potential revenue opportunities by allowing additional species to be landed when using buoy gear, reducing costs associated with discarding, and reducing the costs associated with the potential need to acquire different permits while fishing with buoy gear. This alternative would have no effect on vessels with a Swordfish Incidental permit, unless Alternative B 2b is adopted. Without Alternative B 2b, this alternative would provide additional flexibility for vessels with a Swordfish Directed permit and an Atlantic Tunas Longline permit.

Alternative B 3—Access to Closed Areas Using Pelagic Longline Gear

Alternative B 3a, the preferred No Action alternative, would maintain the current regulations that do not allow vessels to enter a closed area with pelagic longline gear during the time of the closure, unless issued an Exempted Fishing Permit. It would not result in any further costs to small entities.

Alternative B 3b would allow restricted and conditional access to the following closed areas: Charleston Bump closed area (February through April), a portion of the East Florida Coast closed area (year-round), the DeSoto Canyon closed area (year-round), and the Northeastern U.S. closed area (June). All trips into any of the eligible pelagic longline closed areas would be required to be observed. Current NMFS Pelagic Observer Program vessel selection procedures would be used to select vessels using the current strata (*i.e.*, the procedures that select vessels to obtain observer coverage each calendar quarter, and deploy in each of various geographic (statistical) areas). If selected, a vessel would be informed of the statistical area for which the vessel was selected, and the vessel would be allowed to fish within the eligible pelagic longline closed area provided it is within that particular statistical area and that an observer is onboard. The scope of the alternative and its effects would depend upon the level of observer coverage. Currently, eight percent of fishing effort is covered by observers and funded wholly by NMFS. Due to the limits on the level of observers, observer availability and cost would serve as the principal constraint to the amount of access. Participating vessels would be required to "declare into" the area via their VMS unit and report species caught and effort daily via VMS. There would be minor short- and long-term direct beneficial economic and social impacts associated with the added option for vessels to potentially fish in these areas, which could potentially increase landings revenues and decrease fishing costs by providing access to closer and/or more productive fishing areas.

In addition to the requirement to carry an observer and declare and report catch via VMS, this alternative would further require that permitted pelagic longline vessels meet various performance criteria to be authorized to fish in a closed area. Vessels that are determined by NMFS to have a relatively low rate of interactions with bluefin based on past performance, and are compliant with reporting and monitoring requirements would be allowed to fish in the area using pelagic longline gear. Those vessels that have not demonstrated their ability to avoid bluefin or comply with reporting and monitoring requirements would not be allowed to fish with pelagic longline gear in the area. The rationale underlying this requirement is that the commercial data from within the closed areas may be utilized in the future as part of the information used to evaluate the effectiveness and impacts of closed areas, as well as for stock assessments or other management measures. Confidence in the data may be enhanced if the vessels allowed to fish in the closed areas have consistently demonstrated compliance with relevant regulations and are among the vessels that have demonstrated the ability to avoid bluefin at the level exhibited by the majority of the fleet. The performance criteria may lead to beneficial economic incentives for fishery participants to better comply with reporting and monitoring requirements and reduce bluefin interaction rates. Potential revenue would be gained if this alternative were implemented.

The maximum number of potential observed trips into the closed areas was estimated based on historical rates of observer coverage (per quarter) in various statistical areas, and the fact that observer coverage would be a condition of a trip into a closed area. NMFS estimated the maximum number of trips into the pelagic longline closed areas would be 20 trips into the East Florida Coast closed area, witht an average revenue of $17,575 per trip; 80 trips into the DeSoto Canyons at an average revenue of $17,692 per trip; 2 trips into the Northeast closure at an average revenue of $40,726 per trip; and 5 trips into the Charleston Bump at an average revenue of $17,575 per trip. It is import to note that these revenue estimates are an overestimate, with a large amount of uncertainty. The estimates are high because it is very unlikely that all observed trips in a particular statistical area would fish in a closed area. The estimates are uncertain because the average revenue per trip data is from locations outside the closed areas, and may not represent the potential revenue from inside the closed areas.

Bluefin Tuna Quota Controls

Alternative C1—No Action

Under this alternative, there would be no change to the current regulations that restrict pelagic longline vessel retention of bluefin once the Longline category quota has been reached; hence, the total amount of dead discards would not be restricted. There are no short-term economic impacts to vessel owners associated with this alternative, but in the long-term, if dead discards are not curtailed, the pelagic longline fishery could face reduced allocations and earnings.

Alternative C 2—Individual Bluefin Quotas

This preferred alternative would implement IBQs for vessels permitted in the Atlantic Tunas Longline category (provided they also hold necessary limited access swordfish and shark permits) that would result in prohibiting the use of pelagic longline gear when the vessel's annual pelagic longline IBQ has been caught. The allocation of an IBQ share to individual vessels/permits as well as a provision for transferability of IBQs would reduce bluefin dead discards by capping the amount of catch (landings and dead discards); provide strong incentives to reduce interactions and flexibility for vessels to continue to operate profitably; accommodate different fishing practices within the pelagic longline fleet; and create new potential for revenue (from a market for transferrable IBQs).

NMFS considered two alternatives for vessel eligibility to receive bluefin quota shares. The first alternative would be to consider any permitted Atlantic Tunas Longline category vessel (sub-alternative C 2a.1) as being eligible to receive an initial allocation of IBQs. Based on the most recent number of Atlantic Tuna longline limited access permit holders, NMFS estimates that 223 vessels would be eligible to receive IBQs under this alternative. While this alternative might be more inclusive of all members of the fishery, it would reduce the amount of IBQs allocated to each vessel. There would also likely be negative short-term and potentially long-term direct adverse economic impacts associated with reduced initial allocation of IBQs to the most active participants in the fishery. Their initial allocations would likely be insufficient to be able to maintain their current levels of fishing activity and they may not be able to find IBQs to lease or have sufficient capital to lease a sufficient amount of IBQs.

The second alternative, sub-alternative C 2a.2 is the preferred alternative and would consider only active permitted Atlantic Tunas longline vessels. Based on HMS Logbook records from 2006–2012, there were 135 active pelagic longline vessels during that period, with active defined as having reported in the HMS Logbook successfully setting pelagic longline gear at least once between 2006 and 2012. Allocation of quota shares to a smaller number of vessels may reduce the likelihood that a permitted vessel without quota shares would fish and increase the likelihood that available quota would be sufficient for active vessels. This alternative minimizes economic impacts by utilizing criteria that result in a pool of eligible vessels that is optimized in terms of the number of vessels. The optimization balances the benefits of a small number of eligible vessels (resulting in a larger percentage quota share per vessel), and the benefits of an inclusive criteria, which includes the majority of vessels that have fished with pelagic longline gear since 2006. The number of vessels eligible (135) is slightly larger than the average number of vessels that have fished annually since 2006.

In addition to determining who is eligible to receive IBQs, NMFS also considered four alternatives for how IBQ should be initially allocated to those eligible vessel owners. Under Alternative C 2b.1, NMFS would base the initial allocation of IBQs on an equal share of the quota to eligible vessels. To estimate the potential landings each vessel could make given its initial IBQ under this alternative, NMFS analyzed the ratio of bluefin tuna landings and dead discards to designated species weight. These estimated potential landings were then compared to average annual historical landings to estimate the reduction in designated species landings. Under the 74.8 mt Longline category quota scenario, NMFS estimates that there could be a reduction of 2.1 million pounds of designated species landing per year if an IBQ allocation based on designated species landings is used and no trading of IBQs occurs. This would be a reduction of annual landings of approximately 36 percent, and result in a reduction in annual revenues of approximately $91,000 per vessel. Under the 137 mt Longline category quota scenario, NMFS estimates that there could be a reduction of 1.5 million pounds of designated species landing per year if an IBQ allocation based on designated species landings is used and no trading of IBQs

occurs. This would be a reduction of annual landings of approximately 19 percent, and result in a reduction in annual revenues of approximately $47,000 per vessel. Under the 216.7 mt Longline category quota scenario, NMFS estimates that there could be a reduction of 0.9 million pounds of designated species landing per year if an IBQ allocation based on designated species landings is used and no trading of IBQs occurs. This would be a reduction of annual landings of approximately 10 percent and result in a reduction in annual revenues of approximately $27,000 per vessel.

Under Alternative C 2b.2, NMFS would base the initial allocation of IBQs based on the historical landings of designated species from 2006 through 2012. The designated species include swordfish, yellowfin tuna, bigeye tuna, albacore tuna, skipjack tuna, dolphinfish, wahoo, blue shark, porbeagle, shortfin mako, and thresher shark. These are the main marketable pelagic species landed by pelagic longline vessels in addition to bluefin. Under the 74.8 mt Longline category quota scenario, NMFS estimates that there could be a reduction of 2.2 million pounds of designated species landing per year if an IBQ allocation based on designated species landings is used and no trading of IBQs occurs. This would be a reduction of annual landings of approximately 40 percent and result in a reduction in annual revenues of approximately $102,000 per vessel. Under the 137 mt Longline category quota scenario, NMFS estimates that there could be a reduction of 2.0 million pounds of designated species landing per year if an IBQ allocation based on designated species landings is used and no trading of IBQs occurs. This would be a reduction of annual landings of approximately 24 percent, and result in a reduction in annual revenues of approximately $62,000 per vessel. Under the 216.7 mt Longline category quota scenario, NMFS estimates that there could be a reduction of 1.2 million pounds of designated species landing per year if an IBQ allocation based on designated species landings is used and no trading of IBQs occurs. This would be a reduction of annual landings of approximately 15 percent, and result in a reduction in annual revenues of approximately $37,000 per vessel.

Under Alternative C 2b.3, a preferred alternative, NMFS would base the initial allocation of IBQs on the historical landings of designated species from 2006 through 2012 and the ratio of bluefin catch to designated species landings. Using the ratio of bluefin tuna landings and dead discards to designated species weight, NMFS estimated the potential landings each vessel could make given its initial IBQ. These estimated potential landings were then compared to average annual historical landings to estimate the reduction in designated species. Under the 74.8 mt Longline category quota scenario, NMFS estimates that there could be a reduction of 2.7 million pounds of designated species landing per year if an IBQ allocation based on designated species landings is used and no trading of IBQs occurs. This would be a reduction of annual landings of approximately 33 percent, and result in a reduction in annual revenues or approximately $84,000 per vessel. Under the 137 mt Longline category quota scenario, NMFS estimates that there could be a reduction of 1.8 million pounds of designated species landing per year if an IBQ allocation based on designated species landings is used and no trading of IBQs occurs. This would be a reduction of annual landings of approximately 22 percent, and result in a reduction in annual revenues or approximately $56,000 per vessel. Under the 216.7 mt Longline category quota scenario, NMFS estimates that there could be a reduction of 1.2 million pounds of designated species landing per year if an IBQ allocation based on designated species landings is used and no trading of IBQs occurs. This would be a reduction of annual landings of approximately 14 percent and result in a reduction in annual revenues or approximately $36,000 per vessel. The economic impacts of the allocation alternative were minimized through the use of the dual criteria, which considers both the bluefin catch rate, as well as the amount of designated species catch. The scoring system that determines the allocations considers the diversity in the fleet so that some vessels are not disadvantaged due to the level of their fishing activity. Vessels that have historically caught larger amounts of target species, as reflected in the logbook and dealer data will score higher on the 'designated species' element of the allocation criteria. The other aspects of the IBQ Program (*e.g.*, quota allocation leasing) as well as other aspect of Amendment 7 (*e.g.*, allocation alternatives), were designed to mesh with the IBQ Program in order to provide flexibility to increase the likelihood of profitable fishing operations and minimize negative economic impacts, in addition to minimizing and accounting for bluefin catch.

After issuing IBQ shares and allocation based upon the formula, subalternative C 2b.4 would then designate all IBQ shares and allocations as either "Gulf of Mexico" or "Atlantic" based upon the geographic location of sets (associated with the vessels fishing history used to determine the vessel's quota share). Gulf of Mexico IBQ allocation could be used in either the Gulf of Mexico or the Atlantic, but Atlantic IBQ allocation could only be used in the Atlantic (and not the Gulf of Mexico). For a vessel to fish with pelagic longline gear in the Gulf of Mexico, the vessel would be required to have the minimum amount of IBQ to depart, and the IBQ would have to be Gulf of Mexico. The minimum IBQ amount required to fish in the Gulf of Mexico would be 0.25 mt based on the larger average size of bluefin in the Gulf of Mexico. The minimum IBQ amount required to fish in the Atlantic would be 0.125 mt based on the smaller average size of bluefin tuna encountered in the Atlantic. The economic impact of creating these two regional designations would primarily be associated with the larger minimum IBQ allocations required to fish in the Gulf of Mexico and the restriction from transferring or using Atlantic IBQ in the Gulf of Mexico. This would reduce the number of potential trading partners for IBQs in the Gulf of Mexico region, thus potentially leading to less available IBQ allocation that could be leased, potentially making it more difficult to find potential trading partners and therefore increasing transaction costs for conducting a lease. The regional designations minimize economic impacts by allowing Gulf of Mexico IBQ allocation to be utilized in the Atlantic, and through the rules regarding the NED, which provide different IBQ accounting rules for that unique particular area.

In defining the scope of IBQ transfer for alternative C 2c, NMFS considered two subalternatives, because only two Tuna permit categories are under limited access systems. Sub-alternative C 2c.1 would allow transfer of bluefin quota shares or quota allocation among permitted Atlantic Tunas Longline category vessels only, and would not include transferring with other limited access quota categories such as the Atlantic Tunas Purse Seine category. The rationale for this sub-alternative is to provide flexibility for pelagic longline vessels to obtain or sell quota as necessary, so that allocations may be aligned with catch (*i.e.*, vessels that catch bluefin may be able to obtain quota from those that do not interact with bluefin, or have not used their full allocation of bluefin). This sub-

alternative would constrain the amount of bluefin quota available to the Longline category vessels to the Longline category quota, and not make additional quota available. Quota transfers would be allowed among all Longline category vessels with a valid limited access permit, regardless of whether they have been allocated quota under Alternative C 2b. If a vessel catches bluefin using quota that has been leased from another vessel, the fishing history associated with the catch of bluefin tuna would be associated with the vessel that catches the bluefin (the lessee, not the lessor vessel). In other words, the lessee (vessel catching the fish) gets the 'credit' for the landings and dead discards, and not the lessor (the vessel that transferred the quota allocation to the catching vessel). NMFS assumed that the total surplus of IBQs would potentially be traded to vessels with IBQ shortfalls. To simulate trading, the total amount of IBQs surplus was divided equally by the number of vessels that needed additional IBQs. This occurred in two rounds of trades. Under the 74.8 mt quota scenario, the estimated reduction in annual revenues goes from $84,000 per vessel under no trading to $18,000 per vessel with trading. Under the 137 mt quota scenario, the estimated reduction in annual revenues goes from $56,000 per vessel under no trading to $19 per vessel with trading. Finally, under the 216.7 mt quota scenario, the estimated reduction in annual revenues goes from $36,000 per vessel under no trading to no change in annual revenues with trading since there would be a sufficient amount of surplus quota to easily cover the vessels that do not receive initial IBQ allocations to cover their historical fishing levels. While this alternative would have short-term direct minor beneficial economic impacts, those beneficial impacts would be lower than those under sub-alternative C 2c.2.

Sub-alternative C 2c.2, the preferred alternative, would allow transfer of bluefin quota shares or quota allocation between those permitted in the limited access Atlantic Tunas Longline and Purse Seine categories. This sub-alternative would provide flexibility for pelagic longline vessels to obtain, lease, or sell quota as necessary, so that allocations may be aligned with catch (*i.e.,* vessels that catch bluefin may be able to obtain quota from those that do not interact with bluefin, or have not used their full allocation of bluefin). This sub-alternative would not constrain the amount of bluefin quota available to pelagic longline vessels (*i.e.,* through the Longline category quota), but would make additional quota available if purse seine vessels are willing to lease quota. This alternative would also modify the Purse Seine category regulations which currently restrict the transfer of Purse Seine quota to vessels with Purse Seine category permits. Purse Seine quota would be transferable to vessels with an Atlantic Tunas Longline category permit. Similarly, Purse Seine fishery participants would be able to lease quota allocation from pelagic longline vessels. Quota transfer would be allowed among all Longline category vessels with a valid limited access permit, regardless of whether they have been allocated quota under Alternative C 2b. If a vessel catches bluefin using quota that has been leased from another vessel, the fishing history associated with the catch of bluefin tuna would be associated with the vessel that catches the bluefin (the lessee, not the lessor vessel). In other words, the lessee (vessel catching the fish) gets the 'credit' for the landings and dead discards, and not the lessor (the vessel that transferred the quota allocation to the catching vessel). This alternative would have short-term direct moderate beneficial economic impacts.

NMFS considered both annual leasing and permanent sale of IBQs under alternative C 2d. Sub-alternative C 2d.1, a preferred alternative, would allow temporary leasing of bluefin quota among eligible vessels on an annual basis. Temporary quota transfer would give vessels flexibility to lease quota, but as a separate and distinct type of transaction from the permanent sale of quota share. Vessel owners would be able to obtain quota on an annual basis to facilitate their harvest of target species. Sub-leasing of quota would be allowed (*i.e.,* IBQ leased from vessel A to vessel B, then to vessel C). This sub-alternative may be combined Sub-Alternative C 2d.2 (permanent sale of quota share), if implemented. IBQ allocation leases of one year duration would coincide with the time period of annual quota allocation for the fishery as a whole. For a particular calendar year, an individual lease transaction would be valid from the time of the lease until December 31. This alternative would have short-term direct moderate beneficial economic impacts to participants in the fishery. However, in the long-term, the annual transaction costs associated with matching lessors and lessees, the costs associated with drafting agreements, and the uncertainty vessel owners would face regarding quota availability would reduce some of the economic benefits associated with leasing. The IBQ allocation leasing alternatives minimize economic impacts by providing flexibility for pelagic longline vessels to lease IBQ as necessary so that their IBQ allocations may be aligned with catch (*i.e.,* vessels that catch bluefin may be able to obtain IBQ from those that do not interact with bluefin, or have not used their full IBQ allocation of bluefin).

Sub-alternative C 2d.2 would allow permanent sale of quota share among eligible vessels. Through this sub-alternative, vessel owners would be able to purchase (or sell) quota share and permanently increase (or decrease) their quota share percentage. Permanent sale of quota share provides a means for vessel owners to plan their businesses and manage their quota according to a longer time scale than a single year. Vessel owners may be able to save money through a single quota share transaction instead of reoccurring annual quota allocation transactions. This sub-alternative may be combined with the temporary transfer of quota (*i.e.,* annual leasing of quota, Sub-Alternative C 2d.2), but is a separate and distinct type of transaction. (Note, that elsewhere in this document NMFS considers measures for codified quota reallocation alternatives unrelated to an IBQ Program; See Alternative A 2). To enable effective accounting and reduce program complexity, permanent quota share transfers would become effective in the subsequent year, and would have to be executed prior to the annual allocation of quota to IBQ holders. Limits would be placed on the amount of quota an individual entity could permanently transfer in order to prevent the accumulation of an excessive share of quota. This alternative would have long-term direct moderate beneficial economic impacts to participants in the fishery by allowing the ownership of IBQs to shift to where they provide the best economic benefit in the long-term. However, in the short-term, there could be issues associated with the IBQ market. For example the process of the buyers and sellers arriving at a price for IBQ shares may be difficult or highly variable due to uncertainties such as how to value IBQ shares, information availability, and associated risks. Experiences in other catch share programs have shown that fishermen may not know how to effectively value the IBQs initially and uncertainty in this new market may cause IBQs to be undervalued in the first few years. This could result in both adverse social and economic impacts in the fishing community if participants sell out of the

IBQ market in the early years for less than the long-term value of the IBQs.

Sub-alternative C 2d.3, a preferred alternative, would allow permanent sale of quota shares among eligible vessel owners in the future, after NMFS and fishery participants have multiple years of experience with the IBQ Program. Until NMFS develops and implements a permanent IBQ transfer program, vessel owners would only be able to conduct temporary (annual) leasing of quota allocation, and therefore, vessel owners would not be able to purchase (or sell) quota share to permanently increase (or decrease) their quota share percentage. A phased-in approach would reduce risks for vessel owners during the initial stages of the IBQ Program, when the market for bluefin quota shares is new and uncertain. During the first years of the IBQ Program, price volatility may be reduced, as well as undesirable outcomes of selling or buying quota shares at the "wrong" time or price. NMFS intends to develop a program to allow the permanent sale of quota share in the future because it would provide a means for vessel owners to plan their business and manage their quota according to a longer time scale than a single year, in a manner that would be informed by several years of the temporary leasing market. NMFS may wait until a formal evaluation of the IBQ Program before developing this alternative (see IBQ Program Evaluation Alternatives C 2h.1 and C 2h.2). This sub-alternative may be combined with the temporary transfer of quota allocation (*i.e.*, annual leasing of quota, Sub-Alternative C 2d.1), but is a separate and distinct type of transaction. While this alternative may result in long-term moderate beneficial economic impacts, the uncertainty regarding the timeline may make business planning for vessel owners and IBQ holders more difficult and result in some minor adverse economic impacts. This alternative minimizes economic impacts by ensuring that during the initial years of the IBQ Program, permanent transfer of IBQ shares will not be possible, and therefore reduces one of the potential risks of the IBQ Program (that a transfer will have negative unintended economic impacts).

Under sub-alternative C 2e.1, a preferred alternative, quota allocation and/or quota share transfers would be executed by the eligible vessel owners, or their representatives. For example, the two vessel owners involved in a lease of quota or sale of quota share could log into a password protected web-based computer system (*i.e.*, a NMFS database), and execute the quota allocation or quota share transfer. Owner-executed transfers would provide the quickest execution of a transfer because any eligibility criteria would be verified automatically via the user log-in and password, and not involve the submission or review of a paper application for a transfer to/by NMFS. This would result in short- and long-term minor beneficial economic impacts resulting from reduced transactions costs.

Under sub-alternative C 2e.2, quota and quota share transfers would be executed by NMFS. For example, a paper application for a sale of quota share could be submitted by the two vessel owners involved in the quota share transaction, and NMFS would review and approve the transaction based on eligibility criteria (and enter data into a computer database that would track the transfers of quota). This method would not include the use of a web-based system, but would rely upon mail or facsimile submission of applications by the vessel owners to NMFS. In comparison to sub-alternative C 2e.1, this alternative may result in some minor adverse economic impacts if delays in NMFS' review of applications results in increased transactions costs and fewer trades.

Under sub-alternative C 2f.1, there would be no limit on the amount of quota allocation an individual vessel (Longline or Purse Seine) could lease annually. This alternative would provide flexibility for vessels to purchase quota in a manner that could accommodate various levels of unintended catch of bluefin, and enable the development of an unrestricted market. Because the duration of a temporary lease would be limited to a single year, the impacts on an unrestricted market for bluefin quota would be limited in duration. Information on this unrestricted market could be used to develop future restrictions if necessary. This alternative would result in short- and long-term minor beneficial economic impacts by accommodating the various needs of vessel owners for IBQ trades.

Under sub-alternative C 2f.2,the limit on the amount of IBQ allocation that may be leased annually would be the combined Longline and Purse Seine category allocations. This alternative would provide flexibility for vessels to purchase quota in a manner that could accommodate various levels of unintended catch of bluefin, and enable the development of an unrestricted market. Because the duration of a temporary lease would be limited to a single year, the impacts on an unrestricted market for bluefin quota would be limited in duration. Information on this unrestricted market could be used to develop future restrictions (through proposed and final rulemaking) if necessary. This alternative would result in short- and long-term minor beneficial economic impacts by accommodating the various needs of vessel owners for IBQ trades.

Sub-alternative C 2f.3, a preferred alternative, would have NMFS consider in the future the development of further limits on the amount of quota allocation an individual vessel (Longline or Purse Seine), or the Longline or Purse Seine category (in its entirety), could lease annually. Setting a different limit than the combined amount of Longline and Purse Seine category allocations would be difficult, as the market for bluefin allocations is new and, as a consequence, there are no data to inform potential, alternative limits. Further, NMFS does not believe there is a need for a reduced limit. The IBQ Program preferred alternatives are designed to incentivize longline vessels to minimize bluefin interactions, and only 25 percent of vessels are expected to need to lease additional bluefin quota. In recent years, the Purse Seine category has not fished or not fully harvested the amount of quota available. This alternative could result in long-term minor adverse economic impacts if the limits cause some vessel owners to not be able to acquire sufficient IBQs for their fishing activity needs.

The measures under alternative C 2g are based on the premise that the success of an IBQ Program rests upon the ability to track ownership of quota shares and quota allocation holders; allocate the appropriate amount of annual harvest privileges (quota allocation); reconcile landings and dead discards against those privileges; and then balance the amounts against the total allowable quota. The current pelagic longline reporting requirements and the monitoring program that provide data on pelagic longline bluefin landings and dead discards were not designed to support inseason accounting of dead discards. More timely information on catch would be necessary in order to monitor a pelagic longline IBQ, inclusive of dead discards. VMS reporting Sub-alternative C 2g.1, a preferred alternative, is the same management alternative described in Alternative D 1b. This alternative is intended to support the implementation of a pelagic longline IBQ. The economic impacts are detailed in the section below discussing Alternative D 1b.

Electronic monitoring sub-alternative C 2g.2, a preferred alternative, is the same management alternative described in Alternative D 2b of this document.

This alternative is intended to support the implementation of a pelagic longline IBQ. The economic impacts are detailed in the section below discussing Alternative D 2b.

Under sub-alternative C 2g.3, a preferred alternative, in order to conduct inseason quota monitoring and estimate total bluefin dead discards and landings, NMFS may extrapolate observer-generated data (in-season) regarding bluefin discards (rate, number, location, etc.) by pelagic longline vessels, based on reasonable statistical methods, and available observer data. This alternative would not require a regulatory change, but would inform the public that NMFS would use this management practice if warranted. NMFS would use this observer information in conjunction with, or in place of, vessel-generated estimates of bluefin discards in order to develop inseason estimates of total bluefin landings and dead discards. NMFS may use this method to estimate dead discard rates of bluefin for individual vessels in the context of an IBQ Program. This sub-alternative would address the potential for uncertain dead discard data from the pelagic longline fleet that may result from challenges in the implementation of new regulations, technical problems relating to the reporting and monitoring system, or time lags in the availability of data. This alternative would potentially have short-term minor or neutral indirect beneficial economic impacts by addressing the potential for fishery disruptions if there are issues in the transition to an IBQ monitoring system.

Under sub-alternative C 2h.1, a preferred alternative, NMFS would formally evaluate the program after three years of operation and provide the HMS Advisory Panel with a publicly-available written document with its findings. NMFS would utilize its standardized economic performance indicators as part of its review. This would result in neutral economic impacts because it is administrative in nature.

Under sub-alternative C 2h.2, NMFS would conduct a formal evaluation of the IBQ Program after five years of operation and provide the HMS Advisory Panel with a written document with its findings. As described above, NMFS would utilize its standardized economic performance indicators (and associated standardized definitions) as part of its review. This alternative would result in neutral economic and social impacts because it is administrative in nature.

Under alternative C 2i, a preferred alternative, NMFS would develop and implement a cost recovery program of up to 3 percent of the ex-vessel value of fish harvested under the program, for costs associated with the costs of management, data collection and analysis, and enforcement activities, could result in direct long-term moderate adverse economic impacts to the industry. The Magnuson-Stevens Act provides NMFS the authority for cost recovery under § 303A(e). A cost recovery program would not be implemented until after the IBQ Program evaluation described in Alternative C 2h. Immediate implementation of a cost recovery program without the information obtained from the operation of the fishery under an IBQ Program would be very difficult, and would increase costs and uncertainty for fishing vessels during a time period when the fishery would be bearing other new costs and sources of uncertainty. This alternative could result in direct long-term moderate adverse economic impacts to the industry.

Alternative C 2j, a preferred alternative, would implement an appeals process for administrative review of NMFS' decisions regarding initial allocation of quota shares for the IBQ Program. The appeals process for administrative review of NMFS' decisions regarding initial allocation of quota shares for the IBQ Program would result in neutral economic impacts because it would utilize the National Appeals Office procedures and ensure a standardized and centralized appeals process, which would provide procedural certainty to the participants.

If an IBQ Program is implemented, preferred alternative C 2k would implement a control date in conjunction with the implementation (effective date) of the IBQ Program. The control date would serve as a reference date that may be utilized with future management measures, such as a modification to aspects of the IBQ program as a result of items identified during the 3-year review of the IBQ program. The implementation of a control date by itself would have no effect, but would provide NMFS with a potential management tool that may be utilized if necessary as part of a future management measure. A control date is typically used to discourage speculative fishing behavior or speculative entry into a fishery and notifies the public that a date may be used in conjunction with future management measures. This alternative would likely have neutral economic impacts and would only result in beneficial short-term economic impacts if it actually discouraged speculative fishing behavior that may have occurred without the control date.

Sub-alternative C 2l.1, the elimination of target catch requirements is a preferred alternative. Current target catch requirements act at the level of an individual trip to limit bluefin retention, but do not prevent interactions potentially resulting in discarding bluefin dead (although it is intended to dis-incentivize interactions with bluefin by reducing any financial incentive for such interactions by limiting retention). The target catch requirement therefore contributes to the discarding of bluefin if the amount of target catch species is insufficient to retain the numbers of bluefin caught. Under this sub-alternative C 2l.1a, the current target catch requirements would remain in effect. This would have neutral economic impacts since it would not change what is currently in place.

Sub-alternative C 2l.1b, preferred alternative, would eliminate the current target catch requirements for pelagic longline vessels. This alternative is intended to work in conjunction with an IBQ. The objective of this alternative is to reduce bluefin dead discards and optimize fishing opportunity for target species. If an IBQ Program is implemented, elimination of the target catch requirement could reduce dead discards, and enable vessels to fish for target species in a more flexible manner. A vessel that has caught some bluefin but has insufficient target species to meet the target catch requirement would no longer have to choose between discarding bluefin or fishing for more target species; rather, the vessel would use the annual individual bluefin quota (IBQ). Thus, the IBQ would replace the target catch requirement as the means of limiting the amount of bluefin landed and discarded dead per vessel on an annual basis, instead of on a per trip basis. This alternative would likely have direct short- and long-term minor beneficial economic impacts.

Sub-alternative C 2l.2a would maintain the status quo regarding retention of bluefin by pelagic longline vessels. There would be no requirement to retain commercial legal-sized bluefin that are dead. Vessels would continue to be able to discard bluefin even if they are of commercial legal-size (*i.e.*, 73″ or greater) and dead. If the IBQ Program is implemented, all dead discards would be accounted for under that program. This alternative would have neutral economic impacts since it does not change what is currently occurring.

Under sub-alternative C 2l.2b, a preferred alternative, pelagic longline

vessels would be required to retain all legal-sized commercial bluefin tuna that are dead at haul-back. Because these fish would be required to be retained, legal discards and the waste of fish would be decreased, and it would be more likely that such fish are accurately accounted for, and result in a positive use (marketed, used for scientific information, etc.). However, given that current behavior may be to discard some fish in order to optimize landings value of bluefin, there could be minor adverse economic impacts associated with this alternative since vessel operators would no longer have the option to discard legal-sized bluefin.

Alternative C 3—Regional and Group Quotas

Alternative C 3a would implement annual bluefin quotas by region for vessels possessing the Atlantic Tunas Longline category permit (combined with the required shark and swordfish limited access permits) that would result in prohibiting the use of pelagic longline gear when a particular region's annual bluefin quota has been caught. Both bluefin landings and dead discards would count toward the regional quota. Annual bluefin quotas would be associated with defined geographic regions. While regional quotas may be simpler than an IBQ system and have advantages over a single quota allocated for the entire Longline category, some regions may face chronic shortages of bluefin quota if that region experiences increased fishing effort or bluefin interaction rates. It is difficult to predict the total amount of fishing effort that would occur under regional quotas, and the amount of bluefin quota that would be caught. There is likely to be less fishing effort under the Regional quota control alternative (compared with the No Action alternative) because a few vessels could catch a large number of bluefin, and because of the closure of the entire area to the use of pelagic longline gear. The historical data indicate that the majority of bluefin have been caught by relatively few vessels. The amount of target species catch such as swordfish and yellowfin tuna, would depend primarily upon the amount of fishing effort and whether the regional quotas or IBQs become constraining. If the regional quotas reduce pelagic longline fishing effort, there may be some minor adverse economic and social impacts on regional fishing communities where effort is reduced.

Alternative C 3b would implement a quota system for vessels possessing the Atlantic Tunas Longline category permit (combined with the required shark and swordfish limited access permits) that would define three bluefin quota groups and assign vessels with a valid permit to one of the three groups. Both bluefin landings and dead discards would count toward the group quotas. Each active vessel would be assigned to a quota group based upon the associated permit's historical bluefin interactions to "designated species" landings ratio. Active vessels with relatively high numbers of bluefin interactions would be assigned to one quota group, active vessels with a moderate level of bluefin interactions would be assigned to a second group, and the active vessels with a low level of bluefin interactions would be assigned to a third quota group. Using the current quota allocation (8.1%) and the 2012 Longline category quota (74.8 mt) to illustrate, the low avoider quota group would be allocated 24.1 mt and the medium and high avoider quota groups would be allocated 25.1 mt. Although the three quota groups have almost the identical number of vessels assigned to them (53, 54, 54, respectively), as well as similar quota, the average amount of bluefin that they caught historically varies from group to group. The number of bluefin tuna interactions from 2006 to 2011 for the low, medium, and high avoiders was 8,050, 1,348, and 95, respectively. Converted to averages, the average annual number of bluefin interactions would be 1,342, 225, and 16. Utilizing a rough conversion factor of a .125 mt per fish, 225 fish is equivalent to 28 mt. The high and medium avoider groups are likely to have adequate quota, whereas the low avoider group would have inadequate quota if the future interaction rate of the vessels is similar. The average number of interactions associated with the low avoider group equates to approximately 168 mt. It is likely that the group quota associated with vessels with the highest historical rate of bluefin interactions would be attained first. This indicates that there would be potentially significant direct short- and long-term adverse economic impacts to the low avoider group. However, there could be moderate to minor positive economic impacts to the high and medium avoider groups.

Alternative C 4—NMFS Authority To Close the Pelagic Longline Fishery

Under alternative C 4a, No Action, the current regulatory situation would continue, in which NMFS does not have the authority to prohibit the use of pelagic longline gear when the bluefin quota is attained. When the quota is projected to be reached, pelagic longline vessels may no longer retain bluefin tuna, but may continue to fish for their target species, and must discard any bluefin caught. The economic impacts of this alternative would lead to short- and long-term direct minor economic and social impacts due the loss of revenue from bluefin tuna.

Under alternative C 4b, a preferred alternative, NMFS would close the pelagic longline fishery (*i.e.*, prohibit the use of pelagic longline gear) when the total Longline category bluefin quota is reached; projected to be reached; is exceeded; or in order to prevent over-harvest of the Longline category bluefin quota and prevent further discarding of bluefin; or when there is high uncertainty regarding the estimated or documented levels of bluefin catch. The economic impacts of this alternative would depend upon when the closure occurred, ranging from January through December. The time the pelagic longline fishery would be closed would depend upon many factors, including the size of the Longline category quota, the type of quota control alternative and other alternatives implemented by Amendment 7, and non-regulatory factors. The range of quotas that would be available to the Longline category would depend upon the combination of alternatives implemented.

Based on the Longline category being closed in late spring and early summer over the past few years and the 2013 closure occurring in June, NMFS estimates that a June closure is a plausible example to examine. A June closure of the pelagic longline fishery would result in a potential loss of revenue of approximately $21.0 million, or $156,000 per vessel per year. This would result in a major short-term adverse direct economic impact to the pelagic longline fishery and this economic impact would continue into the long-term if landings and dead discard rates continue along the current trend.

Enhanced Reporting Measures

Alternative D 1—VMS Requirements

Alternative D 1a, the No Action alternative, would have no requirement under HMS regulations for an Atlantic Tunas Purse Seine category vessel to obtain a VMS unit and there would be no change to the reporting requirements applicable to purse seine vessels. There would also be no additional VMS requirements under HMS regulations for a vessel using pelagic longline gear.

E–MTU VMS Installation and Operation

Alternative D 1b, a preferred alternative, would require the three vessels with an Atlantic Tunas Purse Seine category permit to have an E–

MTU VMS unit installed by a qualified marine electrician to remain eligible for the Purse Seine permit. Purse seine vessel owners would be required to provide a hail-out declaration using their E–MTU VMS units, indicating target species and gear possessed onboard the vessel when leaving port on every trip. Purse seine vessel owners would also be required to provide a hail-in declaration, using their E–MTU VMS units, providing information on the timing and location of landing before returning to port. The units would be required to send position information to NMFS every hour on a 24/7 basis, unless the vessel has declared out of the fishery or been granted a power-down exemption from NMFS.

All of the three vessels that are currently authorized to deploy purse seine gear for Atlantic tunas have already installed E–MTU VMS units in compliance with regulations for other Council-managed fisheries, including Northeast Multispecies and/or Atlantic scallop. If vessels have not already had a type-approved E–MTU VMS unit installed, or if permits were transferred to vessels that have not yet installed E–MTU VMS, they may be eligible for reimbursement (up to $3,100) to offset the costs of procuring a type-approved unit subject to availability of funds. This reimbursement would only cover the cost of the E–MTU VMS and could not be applied to offset installation costs by a qualified marine electrician ($400) or monthly communication costs ($44). Initial costs, per vessel, for compliance with E–MTU VMS requirements included in this alternative would be $3,500 if no reimbursement were received, and $400 if a reimbursement were received. On a monthly basis, vessels would be required to establish a communication service plan corresponding to the type-approved E–MTU VMS selected. Costs vary based on the E–MTU VMS unit and communication service provider that is selected; however, these costs average $44/month and include hourly transmission reporting and a limited amount of hail in and hail out declarations. Charges vary by communication service provider for additional messaging or transmission of data in excess of what allowed in their individual plan. Furthermore, costs might vary depending on how many trips a vessel makes on a monthly basis as the number of declarations (hail in/hail out) increase proportionately. For this analysis, all communication costs were expected to be covered under baseline monthly plan costs (*i.e.*, $44/month).

If a vessel has already installed a type-approved E–MTU VMS unit, this alternative would have neutral direct and indirect socioeconomic impacts in the short and long-term as the only expense would be monthly communication service fees which they are already paying for participation in a Council-managed fishery. If vessels do not have an E–MTU VMS unit installed or an Atlantic tunas purse seine permit is transferred to another vessel lacking VMS, direct, adverse, short-term socioeconomic impacts are expected as a result of having to pay for the E–MTU VMS unit and a qualified marine electrician to install the unit. In the long-term, direct economic impacts would become minor, because monthly communication service provider costs ($44) would be the only expense. Economic impacts to shore-based businesses, including fish dealers, bait and gear suppliers, and other fishing related industries are not expected.

Pelagic longline vessels are already required to use an E–MTU VMS that has been installed by a qualified marine electrician to provide hourly position reports and hail in/out declarations to provide information on target species, gear possessed, and expected time/location of landing. Therefore, this alternative would result in neutral economic impacts in the short and long term. Economic impacts to shore-based businesses, including fish dealers, bait and gear suppliers, and other fishing related industries are not expected.

Reporting Bluefin Tuna Interactions Using E–MTU VMS

Preferred alternative D 1b would also require vessels fishing for Atlantic tunas with pelagic longline or purse seine gear to report daily the number of bluefin retained, discarded (dead and alive), fish disposition, and fishing effort (number of sets, number of hooks, respectively). This alternative is intended to support the inseason monitoring of the purse seine and pelagic longline fisheries. Although NMFS currently has the authority to require logbook reporting for the purse seine fishery, NMFS has not exercised this authority (see Section 2.3.7). Current information on the catch of the purse seine fishery is limited to dealer data on sold fish, and does not include information of discarded bluefin or other species caught or discarded. Inseason information on catch, including dead discards, would enhance NMFS' ability to monitor and manage all quota categories.

Purse Seine

The characteristics of the purse seine fishery are unique. Many bluefin may be caught by the fishery in a relatively short period of time, and the proportion of discarded to retained fish may be high in some instances. Timely information on discarded bluefin tuna, and more timely information on retained bluefin, would improve the current monitoring of bluefin landings and dead discards. This alternative would provide timely information on purse seine fishing effort, and improve NMFS' ability to interpret and utilize the bluefin data in the context of the fishery as a whole. Recently, there has been limited effort in the Atlantic tunas purse seine fishery for a variety of reasons, including availability and quantity of commercial size bluefin and/or current permit holders are participating in Council-managed fisheries. This alternative would require vessel operators to use their E–MTU VMS to submit electronic reports describing the number and size of bluefin that were landed and discarded dead.

Vessel operators fishing for Atlantic tunas with purse seine gear are already be required to have an E–MTU VMS unit installed and capable of submitting hourly position reports while fishing in addition to hail out/in declarations before and after fishing. This alternative would, however, increase the amount of information that vessel operators provide using their E–MTU VMS units. Typically, fishermen would make a single declaration for each set that details the quantity and size of bluefin retained. This alternative would result in neutral economic impacts in the short and long-term because the vessel owners would already be paying, on average, $44 per month to cover the costs of a communication service provider. The number of additional characters transmitted to report bluefin retained and discarded dead are expected to be less than 50 characters per set, and are not expected to exceed the typical monthly allowance for data sent using the E–MTU VMS. Economic impacts to shore-based businesses, including fish dealers, bait and gear suppliers, and other fishing related industries are not expected.

Pelagic Longline

With respect to pelagic longline vessels, this alternative is intended to support the implementation of a pelagic longline IBQ Program, whether individual or regional, described under Section 2.3. For example, under an IBQ Program, each vessel must not harvest

more than is permitted by the total of his/her quota share. The IBQ Program would require vessel owners/operators have the ability to track quota shares and quota allocations, reconcile landings against quota allocations, and then balance the amounts against the total allowable quota. Although the current pelagic longline reporting requirements and the monitoring program provide data on pelagic longline discards and landings, and enable inseason monitoring and management based upon landings, the reporting requirements and monitoring program were not designed to support inseason monitoring of dead discards. More timely information on dead discards would be necessary in order to monitor and enforce a pelagic longline IBQ Program. Although the current information on bluefin discards from the pelagic longline fishery, which is obtained through logbook data on effort and catches from the observer program, is sufficient to estimate bluefin dead discards on an annual basis, the time lag associated with the current information is not useful for "real-time" in-season monitoring of an IBQ Program. Specifically, there is a time lag between the time logbooks are submitted or the field information is recorded by the observer during the fishing trip, the time the data are entered into a database, and the time the data are finalized (after a process of quality control) and available for use. A trip declaration requirement could be necessary in order for NMFS to obtain timely information on pelagic longline fishing effort, and interpret and utilize the bluefin data in the context of the fishery as a whole.

HMS logbook data (2006–2012) indicate that, on average, pelagic longline vessels have one interaction (9,660 interactions/10,262 trips = 0.94 interactions/trip) with a bluefin per vessel per trip. This alternative would require all pelagic longline vessel operators to report all interactions (kept, discarded dead, discarded alive) and estimate fish size (> or < than 73″ CFL) using their E–MTU VMS within 12 hours of the completion of the haul-back. Furthermore, additional information on fishing effort, including the number of hooks deployed on the set that had a bluefin would also be reported.

This alternative is expected to have neutral to minor adverse economic impacts on pelagic longline vessel operators and owners in the short and long-term. Economic impacts to shore-based businesses, including fish dealers, bait and gear suppliers, and other fishing related industries are not expected. Existing regulations require all pelagic longline vessel operators to provide hail out/in declarations and provide location reports on an hourly basis at all times unless they have declared out of the fishery or been granted a power down exemption by NMFS. In order to comply with these regulations, vessel owners must subscribe to a communication service plan that includes an allowance for sending similar declarations (hail out/in) describing target species, fishing gear possessed, and estimated time/location of landing using their E–MTU VMS. This alternative would require, on average, 1 additional report per trip that describe bluefin interactions and fishing effort. Each report is expected to be comprised of less than 50 characters. Because of the minimal time (approximately 5 minutes) required to submit these short reports and the fact that owners would likely already be enrolled in a communication service plan that would encompass transmission of these additional characters, adverse economic impacts are not expected.

Alternative D 2—Electronic Monitoring of Longline Category

Under alternative D2a, the No Action alternative, NMFS would maintain the status quo and would not pursue any additional measures that would require permitted pelagic longline vessels to install electronic devices such as cameras in order to support the monitoring or verification of bluefin catch under the IBQ Program. Currently, pelagic longline vessels are required to use E–MTU VMS units to provide hourly position reports and to provide hail out/in declarations describing target species, fishing gear onboard, and time/location of landing unless they have declared out of the fishery or been granted a power down exemption by NMFS. Under this alternative, these requirements would be maintained, and no additional electronic monitoring requirements would be implemented. This alternative would not result in economic impacts because it would maintain existing requirements.

Alternative D 2b, a preferred alternative, would require the use of electronic monitoring, including video cameras, by all vessels issued an Atlantic Tunas Longline category permit that intend to fish for highly migratory species. Specifically, vessels would be required to install and maintain video cameras and associated data recording and monitoring equipment in order to record all longline catch and relevant data regarding pelagic longline gear retrieval and deployment.

More specifically, this alternative would require the installation of NMFS-approved equipment that may include one to four video cameras, a recording device, video monitor, hydraulic pressure transducer, winch rotation sensor, system control box, or other equipment needed to achieve the objectives. Vessel owner/operators would be required to install, maintain, facilitate inspection of the equipment by NMFS, and obtain NMFS approval of the equipment. The vessel owner/operator would be required to store and make the data available to NMFS for at least 120 days, and facilitate the submission of data to NMFS. The vessel operator would be responsible for ensuring that all catch is handled in a manner than enables the electronic monitoring system to record such fish, and must identify a crew person or employee responsible for ensuring that all handling, retention, and sorting of bluefin occurs in accordance with the regulations.

While the electronic monitoring program is being designed and implemented, NMFS would continue to use logbook, observer, and landings information to assess catch by the pelagic longline fleet. NMFS would communicate in writing with the vessel owners during all phases of the program to provide information to assistant vessel owners, and facilitate the provision of technical assistance.

This alternative would require both fixed and variable costs over the service life of each camera installed onboard. Fixed costs for vessel owners would include purchasing the camera ($3,565) and having it installed on the vessel ($500). Variable costs for vessel owners include data retrieval ($45/hour; $4,500/year); service ($45/hour; $270/year); technician travel ($0.5/mile; $1,680/year); fishing activity interpretation ($47/hour; $1,175 year); and catch data interpretation ($1.5 hours per haul at a labor rate of $47/hour, 1 haul per trip and 100 trips; $7,050/year). The estimated total variable costs would be $14,663, and first year fixed costs would be $4,065 for the purchase and installation of the equipment. First year fixed and variable costs total $18,728/vessel for the first year. After the first year, the annual variable costs of operation are estimated to be $14,663/vessel. The estimate provided here for catch data interpretation is likely an overestimate as the Agency is primarily concerned with verification of bluefin reports and no other species (*i.e.*, yellowfin tuna, swordfish, dolphin, wahoo, etc.) being landed on pelagic longline vessels. After purchasing the camera and having it installed, expenses

would be limited to the variable costs listed. This alternative would result in direct and indirect adverse economic impacts to pelagic longline vessel owners in the short and long term. NMFS is minimizing the economic impacts of this alternative by paying for the initial installation of the equipment, as well as for some of the variable costs such as review of the data.

Alternative D 3—Automated Catch Reporting

The preferred alternative D 3 would require Atlantic Tunas General, Harpoon and HMS Charter/Headboat permit holders to report their bluefin catch (*i.e.*, landings and discards) using an expanded version of the bluefin recreational automated landings reporting system (ALRS). The automated system includes two reporting options, one that is web-based and an interactive voice response telephone system. The "No Action" alternative is not preferred because it would not meet the Amendment 7 objectives, and would have no social or economic impacts.

The primary impacts of the preferred alternative are the amount of time the new reporting requirement would take, and the reporting costs, respectively. NMFS estimated the potential annual catch for each permit category based on previous years data and multiplied it by the 5 minutes it takes to complete a report (NMFS 2013) for each fish to estimate a total reporting burden of 607 hours for potentially 8,226 permit holders as a result of this alternative. Since the data are collected online or via telephone, there are no monetary costs to fishermen or direct economic impacts to fishermen from this alternative.

Adjustments to both the online and IVR systems of the ALRS to implement catch reporting for General, Harpoon, and HMS Charter/Headboat category permit holders are estimated to cost NMFS a total of between $15,000 and $35,000 (B. McHale, pers. comm.) Annual maintenance would likely cost approximately $8,700 per year, which is the current cost for maintaining the ALRS and the call-in system for reports of other recreational HMS landings (NMFS 2013). The economic impacts of this alternative are minimized because the online reporting requirement results in a relatively low reporting burden.

Alternative D 4—Deployment of Observers

Under alternative D 4a, the No Action alternative, which is the preferred alternative, there would be no changes to the current observer coverage in the Atlantic Tunas Longline, General, Purse Seine, Harpoon, or HMS Charter/Headboat categories. Therefore, there would be no additional cost to small businesses.

Alternative D 4b would increase the level of NMFS-funded observers on a portion of trips by vessels fishing under the Atlantic Tunas Longline, General, Purse Seine, Harpoon, or HMS Charter/Headboat categories. There might be some minor costs to vessel operators with the increased chance that they will be selected for observer coverage and will have to accommodate an observer.

Alternative D 5—Logbook Requirement for Atlantic Tunas and HMS Category Permit Holders

Alternative D 5, the No Action alternative, is preferred and would make no changes to the current logbook requirements applicable to any of the permit categories. It would have no economic impact on fishing vessel owners.

Alternative D 5b would require the reporting of catch by Atlantic Tunas General, Harpoon, and HMS Charter/Headboat category vessels targeting bluefin through submission of an HMS logbook to NMFS. The direct social and economic impacts of this non-preferred alternative include the amount of time to complete logbook forms and the cost of submission (*i.e.*, mailing) for all fishermen permitted in the affected permit categories. These impacts would be minor, adverse, and long-term. A high-end proxy for the impacts of this alternative is the current reporting burden and cost for the entire HMS logbook program, which have been estimated for all commercial HMS fisheries (28,614 permits, NMFS 2011a). The annual reporting burden for the entire program is estimated at 36,189 hours and costs are $94,779 for postage. A more refined estimate is 6,735 hours, which is based on the number of fishermen likely to conduct directed fishing trips for bluefin based on the total number of General, Charter/Headboat, and Harpoon category permit holders in the states from Maine through South Carolina. This is likely also an over-estimate, since many General and Charter/Headboat permit holders in these states fish for yellowfin, or other tunas rather than bluefin, or, for Charter/Headboat permit holders, other HMS. NMFS estimates this alternative would have a total annual reporting burden of 16,526 hours and a cost of $8,263.

Alternative D 6—Expand the Scope of the Large Pelagics Survey

"No Action" is the preferred alternative for the scope of the Large Pelagics Survey, and would have no social or economic impacts. The non-preferred alternative would expand the Large Pelagics Survey to include May, November, and December, and add surveys to the states south of Virginia, including those bordering the Gulf of Mexico, in order to increase the amount of information available about the recreational bluefin fishery, and further refine recreational bluefin landings estimates.

The direct economic impact of this non-preferred alternative is the amount of time that fishermen would expend participating in the survey. The impacts would be minor, adverse, and long-term. There are no financial costs to fishermen since the survey is conducted in person and over the phone, and there would be no direct economic impacts to fishermen for this alternative. NMFS estimates that the dockside survey takes 5 minutes on average, the phone survey takes 8 minutes, and collection of supplemental biological information takes about 1 minute. Previously, NMFS estimated that annual implementation of the Large Pelagics Survey throughout Atlantic and Gulf coastal states using the current target sample-size of 7,870 for the dockside survey, 10,780 for the phone survey and 1,500 for the biological survey would result in a reporting burden of 656 hours, 924 hours, and 25 hours respectively, for a total reporting burden of 1,730 hours (NMFS 2011b). This estimate could be used as a high-end proxy for the reporting burden associated with this alternative. Another method for estimating the reporting burden associated with this alternative is to use a ratio comparing the sample frame (*i.e.*, number of permits) used in the coastwide estimate with the sample frame for the alternative (*i.e.*, number of permits in states south of VA). Using this method, the reporting burden estimate is 559 hours. Because of the sampling design, adding the months of May, November, and December is not expected to add any reporting burden or cost (Ron Salz, pers. comm.).

Other Measures

Alternative E 1—Modify General Category Subquota Allocations

If no action is taken under Alternative E 1a to modify the General category sub-period allocations, economic impacts would be neutral and largely would vary by geographic area, with continued higher potential revenues during the

summer months in the northeast and lower amounts to winter fishery participants off the mid- and south Atlantic states. General category participants that fish in the January bluefin fishery may continue to perceive a disadvantage as the available quota for that period is relatively small (5.3% of the General category quota) and they do not benefit from the rollover of unused quota either inseason or from one time period to the next. Nor do they benefit from prior-year underharvest, because of the timing of the annual final quota specifications (published in the middle of the year).

Alternative E 1b would establish a 12 equal monthly subquotas. It would allow the General category to remain open year-round, and would revise subquotas so that they are evenly distributed throughout the year (*i.e.*, the base quota of 435.1 mt would be divided into monthly subquotas of 8.3 percent of the General category base quota, or 36.1 mt). NMFS would continue to carry forward unharvested General category quota from one time period to the next time period. This alternative would result in increased harvest in the earlier portions of the General category bluefin season and decreased harvest in the later portions of the season. For early season (January–March) General category participants, an additional 85.2 mt would be available (*i.e.*, 108.3–23.1 mt). At $9.13/lb, this represents a potential increase in revenue of approximately $1.7 million overall during this time period, nearly five times the current amount. NMFS does not have General category price/lb information for April or May since there is currently no General category fishing during those months, but using $9.13/lb as an estimate, potential revenues for each of those months would be $726,621. Potential revenues for the current June–August and September periods would decrease by approximately $2.2 million (50%) and $1.7 million (69%), given recent average price ($9.13 and $9.61, respectively). For October–November and for December, potential revenues would increase by approximately $317,000 (28%) and $287,000 (60%) at $9.21/lb and $9.65/lb, respectively. Relative to the No Action alternative, under Alternative E 1b, there would generally be substantially increased revenues for January through May and October through December and substantially decreased revenues for June through September, and total annual revenues would decrease by approximately $100,000 (1%).

Alternative E 1c, a preferred alternative, is similar to Alternative E 1b and could result in a shift in the distribution of quota and thus fishing opportunities to the earlier portion of the year. For example, in 2011 and 2012, June through August General category landings totaled 140.3 mt and 192.2 mt, out of an available (base) quota of 217.6 mt. In 2010, June through August General category landings totaled 125.4 mt of an available (adjusted) quota of 269.4 mt. If quota that is anticipated to be unused in the first part of the summer season is made available to January period General category participants and bluefin are landed against the January period subquota, it would potentially result in improved and fuller use of the General category quota. Also, because bluefin price per lb is often higher in the January period than during the summer, shifting quota to this earlier period would result in beneficial impacts to early season General category participants off the mid- and south Atlantic states. It is possible, however, that an increase of bluefin on the market in the January period could reduce the average price for that time of year. Participants in the summer fishery may perceive such quota transfer to be a shift away from historical participants in the traditional General category bluefin fishing areas off New England and thus adverse. However, because unused quota rolls forward within a calendar year from one period to the next, any unused quota from the adjusted January period would return to the June through August period and onward if not used completely during that period. Overall, short-term, direct impacts depend on the amount and timing of quota transferred inseason and would be expected to be neutral to minor, beneficial for January fishery participants and neutral to minor, adverse impacts for participants in the June through December General category fishery. This alternative minimizes economic impacts by providing additional regulatory flexibility for NMFS to transfer quota among seasons, and respond to and adapt to changes in the bluefin fishery. This flexibility therefore enhances NMFS' ability to optimize quota distribution among participants, seasons, and regions.

Alternative E 2—NMFS Authority To Adjust Harpoon Category Retention Limits Inseason

Under the No Action alternative, alternative E 2a, Harpoon category participants would continue to have the ability to retain and land up to four large medium fish per vessel per day, as well as unlimited giants. The economic impact of the No Action alternative is expected to be direct and neutral to slightly beneficial and short-term, as participants would continue to be able to retain and land a 3rd and 4th large medium bluefin, if available, and would not have to discard these fish if caught while targeting giant bluefin. In 2012, the first year following implementation of the four-fish limit on large mediums, there were only two trips on which three large mediums were landed and two trips on which four large mediums were landed, or 6% total of successful trips. Harpoon quota revenues in 2012 were 24 percent lower than 2011 and 71 percent higher than in 2010.

Under alternative E 2b, a preferred alternative, the daily retention limit of large medium bluefin would range from two to four bluefin, and the default large medium limit would be set at two fish. On a per-trip basis, there would be minor short-term direct adverse social and economic impacts that would depend on availability of large mediums to Harpoon category vessels on a per trip basis and the actual retention limit that NMFS sets inseason (or that is in place by default). Looking at successful 2012 trips, NMFS can estimate potential impacts of this change by determining the number of trips on which three or four large mediums were landed in 2012, and assume that those fish may not be able to be landed under this alternative. Using 2012 successful trip data, if the limit was set at two large mediums, the revenue from up to six large mediums would be foregone for the season, and with a three fish limit, the revenue of up to two large mediums would be foregone. At an average 2012 weight of 296 lbs. and an average price of $9.13/lb for the Harpoon category, a loss of one to six fish would be approximately $2,702 to $16,215 for the Harpoon category as a whole for the year.

Potentially beneficial economic impacts are possible if a lower limit at the beginning of the season results in the Harpoon category quota lasting longer into the season, as the average price/lb is generally higher in July and August than it is in June. NMFS has not needed to close the Harpoon category in recent years (*i.e.*, as a result of the quota being met), but depending on the size of the amount of quota available and the number of Harpoon category participants, this may be a consideration. This alternative minimizes economic impacts by providing additional regulatory flexibility for NMFS to set bluefin trip limits, and respond to and adapt to changes in the bluefin fishery.

Alternative E 3—Angling Category Subquota Distribution

Under alternative E 3a, the No Action alternative, Angling category participants fishing south of 39°18′ N. lat. (approximately, Great Egg Inlet, NJ) would continue to have their landings of trophy bluefin count toward a shared 66.7% of the Angling category large medium and giant bluefin subquota. The social impact of the No Action alternative is expected to vary by geographic area and be dependent on the availability of trophy-sized bluefin on the fishing grounds. If the pattern of high activity off Virginia and North Carolina continues, fishermen in the mid-Atlantic may have greater opportunities to land a bluefin and participants in the Gulf of Mexico may have no opportunity to land a bluefin when the fish are in their area as the southern trophy fishery may already be closed for the year. For Angling and Charter/Headboat fishermen, based on the last two years, there would be direct, beneficial, short-term social impacts in the mid-Atlantic and direct, adverse, short-term impacts for participants south of that area, including the Gulf of Mexico. The issue of economic costs for Angling category participants is not relevant as there is no sale of tunas by Angling category participants. For charter vessels, which sell fishing trips to recreational fishermen, economic impacts are expected to be neutral to beneficial for those in the mid-Atlantic and neutral to adverse for those south of that area, including the Gulf of Mexico, as the perceived opportunity to land a trophy bluefin may be diminished. This should be tempered in the Gulf of Mexico, where there is no directed fishing for bluefin allowed. Given that the current southern trophy bluefin subquota of 2.8 mt represents approximately 17–30 individual fish, impacts are expected to be minor.

Under Alternative E 3b, the preferred alternative, a portion of the trophy south subquota would be allocated specifically for the Gulf of Mexico. Specifically, the trophy subquota would be divided as 33% each to the northern area, the southern area outside the Gulf of Mexico, and the Gulf of Mexico. At the current average trophy fish weight, this would allow annually up to 8 trophy bluefin to be landed in each of the three areas.

There would be minor, short-term, direct, beneficial social impacts to a small number of vessels in the Gulf of Mexico given the small amount of fish that would be allowed to be landed (as well as indirect beneficial economic impacts for charter vessels), but the perception of greater fairness among southern area participants may result in indirect, longer-term, beneficial, social impacts. There would be minor, short-term, direct and indirect adverse social impacts (and economic impacts for charter vessels) for those outside the Gulf of Mexico as the perceived opportunity to land a trophy bluefin may be diminished.

Alternative E 4—Change Start Date of Purse Seine Category to June 1

Under Alternative E 4a, the No Action alternative, there would be no change to the start date of the Purse Seine category fishery, which is currently set at July 15. Economic impacts would be expected to be direct and neutral to adverse depending on availability of schools of bluefin for purse seine operators to decide to make a set on. That is, currently, if conditions would warrant making a set (*e.g.*, based on information from spotter pilots) before July 15, purse seine operators would not be able to fish and would miss the economic opportunity to land and sell bluefin while the other commercial bluefin fisheries are open. Social impacts would be minor and neutral to adverse for purse seine fishery participants and would be minor and neutral to beneficial for fishermen in other categories due to reduced actual or perceived gear conflict from June 1 through July 14.

Under the preferred alternative, E 4b, extending the range of potential start dates for the Purse Seine fishery, beginning fishing on June 1, would allow NMFS more flexibility in determining when the appropriate start date should be set, and the potential for increased flexibility for purse seine operators to choose when to fish, based on availability of schools of appropriate-sized bluefin and market price. Economic impacts would be expected to be direct and neutral to moderate and beneficial depending on when determines the start date should be, and depending upon the availability of schools of bluefin for purse seine operators to decide to make a set on and market conditions. Social impacts would be minor and neutral to beneficial for purse seine fishery participants and would be minor and neutral to adverse for fishermen in other categories due to increased actual or perceived gear conflict from June 1 through July 14. In 2012, the average price per pound was $12.46, although the price likely reflects the relatively small amount of purse seine-caught bluefin on the market that year. In 2009, the last year in which there were Atlantic purse seine bluefin landings, the average price per pound was $5.96. NMFS minimized the potential economic impacts of this alternative by altering this measure from that which was proposed, to remove the default start date of June 1, which was of concern to handgear fishermen, but instead will finalize an expanded range of potential start dates to the Purse Seine fishery.

Alternative E 5—Rule Regarding Permit Category Changes

Under the No Action alternative, E 5a, there would be no changes made to current regulations regarding the ability of an applicant to make a correction to their open-access HMS permit category. The current regulations prohibit a vessel issued an open-access Atlantic Tunas or an HMS permit from changing the category of the permit after 10 calendar days from the date of issuance. This No Action alternative is administrative in nature, and therefore the social and economic impacts associated with it would be neutral for most applicants. However, for those applicants who discover their permit category may not allow the vessel to fish in a manner as intended, they may experience moderate adverse social and economic impacts at an individual level. For example, if a commercial fishermen obtained an Angling category permit (recreational) versus a General category permit (commercial) and did not discover the error until after the 10 calendar day window, their vessel would not be allowed to fish commercially for Atlantic tunas for the remainder of that year. Likewise, if recreational fishermen obtained a General category permit (commercial) versus an Angling category permit (commercial) and did not discover the error until after the 10 calendar window, their vessel would not be allowed to fish under the recreational rules and regulations for the remainder of the year. These two examples demonstrate the potential in lost fishing opportunities as a result of the No Action alternative.

Under the preferred alternative, E 5b, NMFS would allow category changes to an open-access HMS permit for a time period greater than 10 calendar days (*e.g.*, 30, 45, or 60 days), provided the vessel has not fished as verified via landings data. This alternative would result in neutral social and economic impacts for most applicants as there are approximately 20 requests annually that would fall outside the 10 calendar day window. However, those applicants who discover their permit category may not allow the vessel to fish in a manner as intended (~20 per year), would

experience moderate beneficial social and economic impacts provided they discover the error in the liberalized window (*e.g.*, 30, 45, or 60 days). Using the two examples illustrated above and assuming no bluefin were caught in either case, each applicant would be allowed to correct their open-access HMS permit category to match their intended fishing practices for the remainder of that year, thereby mitigating the potential of lost fishing opportunities, as well as potential income.

Alternative E 6—North Atlantic Albacore Tuna Quota

Alternative E 6a, the No Action alternative, maintains the current northern albacore tuna quota. In the last 10 years, U.S. catches reached or exceeded the current U.S. initial quota (527 mt for 2013) in 2004 with 646 mt and in 2007 with 532 mt. However, catches have been less than the adjusted U.S. quotas (currently about 659 mt) for the last several years. Under the No Action alternative, there is no domestic mechanism to limit annual catches of northern albacore beyond the current requirements for Atlantic tunas or HMS vessel permits, authorized gear, observers/logbooks, and time/area closures. Therefore, expected short-term, direct economic impacts and social impacts under the No Action alternative would be neutral. If future overharvests result in the United States being out of compliance with the ICCAT recommendation, the United States would need to put control measures in place and neutral to adverse longer-term direct economic and social impacts could occur if the resulting annual quota needs to be reduced by the amount of the overharvest.

If, under preferred alternative, E 6b, NMFS implements a domestic quota for northern albacore and recent catch levels continue, and the U.S. quota (including the adjusted quota) recommended by ICCAT is maintained at the current amount, economic and social impacts would not be expected. However, if either the U.S. quota is reduced as part of a new TAC recommendation or catches increase above the current adjusted U.S. quota, there could be adverse impacts resulting from reduced future fishing opportunities and ex-vessel revenues. At an average price of $1.29/lb for commercially-landed albacore in 2011, a reduction of one mt would represent approximately $2,800 under a full quota use situation. Actual impacts would largely depend on the availability of northern albacore and the ability of fishery participants to harvest the quota. In addition, any adverse social and economic impacts of exceeding the TAC, which was adopted as part of the overall ICCAT northern albacore rebuilding program, would be reduced and, in the long term, may be beneficial for fishermen as the stock grows. There may be slight differences in the level of economic and social impacts experienced by the specific individuals of the northern albacore fishery, as well as by participants within a particular fishery sector.

NMFS has determined that Amendment 7 does not require reinitiation of consultation and that, per ESA section 7(d), it would not result in an "irreversible or irretrievable commitment of resources" that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures during the ongoing consultations.

On March 31, 2014, NMFS reinitiated consultation for the pelagic longline fishery. That fishery operates consistent with a 2004 Biological Opinion (BiOp) that concluded that the Atlantic pelagic longline fishery was not likely to jeopardize the continued existence of loggerhead, green, hawksbill, Kemp's ridley or olive ridley sea turtles but was likely to jeopardize the continued existence of leatherback sea turtles. NMFS implemented the Reasonable and Prudent Alternatives (RPAs) and Terms and Conditions specified in that BiOp (*e.g.*, hook type, bait type, mandatory workshops). On March 31, 2014, NMFS requested reinitiation of consultation of the pelagic longline BiOp due to new information on mortality rates and total mortality estimates for leatherback turtles that exceed those specified in the RPAs, changes in information about leatherback and loggerhead populations, and new information on sea turtle mortality. While the mortality rate measure needs to be re-evaluated, this does not affect the overall ability of the RPAs to avoid jeopardy during the reinitiation.

NMFS is continuing to implement these RPAs during the ongoing consultation and has previously determined that ongoing operations in compliance with that BiOp are consistent with sections 7(a)(2) and 7(d) of the ESA.

Implementation of this final rule will not affect NMFS' ability to comply with the RPAs and RPMs in the 2004 BiOp, and will not trigger additional ESA requirements or considerations pertaining to the pelagic longline fishery and listed sea turtles and other species covered in the 2004 BiOp. Amendment 7 measures (including those that could reduce fishing effort) implemented in conjunction with current measures in the HMS fisheries would not change the determination that ongoing operations are unlikely to jeopardize the continued existence of the right whale, humpback, fin, or sperm whales, or Kemp's ridley, green, loggerhead, hawksbill or leatherback sea turtles. A complete discussion of the effect of the alternatives applicable to the Longline category on quota allocation and fishing effort is located in Section 4.1.6.1 of the FEIS.

On July 3, 2014, NMFS published a final rule to list four Distinct Populations Segments (DPS) of scalloped hammerhead sharks (*Sphyrna lewini*): Two as threatened (Central and Southwest Atlantic DPS and Indo-West Pacific DPS) and two as endangered (Eastern Atlantic DPS and Eastern Pacific DPS) under the Endangered Species Act (79 FR 38214). The Central and Southwest Atlantic DPS consists primarily of the population found in the Caribbean Sea and off the Atlantic coast of Central and South America (includes all waters of the Caribbean Sea, including the U.S. EEZ off Puerto Rico and the U.S. Virgin Islands).

On August 27, 2014, NMFS published a final rule to list the following 20 coral species as threatened: Five in the Caribbean including Florida and the Gulf of Mexico (*Dendrogyra cylindrus, Orbicella annularis, Orbicella faveolata, Orbicella franksi,* and *Mycetophyllia ferox*); and 15 in the Indo-Pacific (*Acropora globiceps, Acropora jacquelineae, Acropora lokani, Acropora pharaonis, Acropora retusa, Acropora rudis, Acropora speciosa, Acropora tenella, Anacropora spinosa, Euphyllia paradivisa, Isopora crateriformis, Montipora australiensis, Pavona diffluens, Porites napopora,* and *Seriatopora aculeata*). Additionally, in that August 2014 rule, two species that had been previously listed as threatened (*Acropora cervicornis* and *Acropora palmata*) in the Caribbean were found to still warrant listing as threatened.

The Central and Southwest Atlantic DPS of scalloped hammerhead sharks and seven Caribbean species of corals occur within the management area of Atlantic Highly Migratory Species (HMS) commercial and recreational fisheries which are managed by NMFS's Office of Sustainable Fisheries, HMS Management Division. Following these listings and based on the information included in an October 2014 biological evaluation, NMFS determined that certain authorized Atlantic HMS gear types may affect and are likely to adversely affect scalloped hammerhead sharks within the Central and

Southwest Atlantic DPS. Additionally, certain authorized Atlantic HMS gear types may affect, but are not likely to adversely affect, threatened Caribbean coral species. Thus, on October 30, 2014, NMFS requested reinitiation of ESA section 7 consultation for the 2006 Consolidated Atlantic HMS Fishery Management Plan activities, as amended and as previously consulted on in the 2001 Atlantic HMS biological opinion and the 2012 Shark and Smoothhound biological opinion, to assess potential adverse effects of certain gear types on the Central and Southwest DPS of scalloped hammerhead sharks and seven threatened coral species.

With regard to the new listings, per ESA section 7(d), NMFS has determined that Amendment 7 would not result in an "irreversible or irretrievable commitment of resources" that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures during the ongoing consultations. There are scalloped hammerhead shark interactions in the Central and Southwest Atlantic DPS, based on Fisheries Logbook System and Pelagic Observer Program data. The number of interactions is consistent with the conclusion that scalloped hammerhead sharks in the Central and Southwest Atlantic DPS are rarely targeted and that recreational fishing results in catch and release of low numbers of under-sized scalloped hammerhead sharks. Additionally, Atlantic HMS gear types may affect but are not likely to adversely affect, threatened Caribbean coral species.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control numbers 0648–0372, 0648–0328, and 0648–0677. Public reporting burden for these collections of information are estimated to average, as follows:

1. Purse Seine VMS hail out & in, OMB # 0648–0372, (5 min/response);

2. Pelagic Longline (PLL) and Purse Seine (PS) VMS catch reports and verification, OMB # 0648–0372, (5 min/response for PLL; 15 min for PS)

3. Electronic Monitoring of Pelagic Longline Vessels, Data Retrieval, OMB # 0648–0328, (5 min/response)

4. General, Harpoon, and Charter/Headboat reporting via automated systems, OMB # 0648–0328, (5 min/response)

5. Pelagic Longline appeal of Performance Metrics, OMB # 0648–0677, (2 hr/response)

6. Pelagic Longline appeal of Quota Shares, OMB # 0648–0677, (2 hr/response)

7. Pelagic Longline and Purse Seine IBQ Trade Execution and Tracking, Transfer of Allocation, OMB # 0648–0677, (2 min/response)

8. IBQ Trade Execution and Tracking, Online Account Initial Application, OMB # 0648–0677, (10 min/response)

9. IBQ Trade Execution and Tracking, Online Account Renewal Application, OMB # 0648–0677, (10 min/response)

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. Copies of this final rule and the compliance guide are available upon request from NMFS (see **ADDRESSES**). Copies of the compliance guide will also be available from the Highly Migratory Species Management Division Web site at *http://www.nmfs.noaa.gov/sfa/hms/*.

This final rule does not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)). Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the ACTA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. We do not believe that the new regulations duplicate, overlap, or conflict with any relevant regulations, Federal or otherwise.

The State of Louisiana objected to the consistency determination required by 15 CFR 930.39, and stated that the potential biological benefits of the Amendment are minimal compared to the potentially large socio-economic impacts for pelagic longline vessels, especially those related to the IBQ program. The State of Louisiana also disagreed with the conclusion that the proposed activity is consistent to the maximum extent practicable with the LCRP, claiming that the determination lacks information sufficient to support the consistency statement "as required by federal regulations at 15 CFR 930.39(a) and as identified in the enforceable policies of the Louisiana Administrative Code, Title 43, Part I."

The State of Louisiana states that Amendment 7 is inconsistent with three, and is not fully consistent with six, of the enforceable policies of the Louisiana Administrative Code and states that Amendment 7 lacks comprehensive data and information sufficient to support the consistency statement. The specific factors of section 701 of the Louisiana Administrative Code that the State of Louisiana states are not fully consistent with Amendment 7 are Section 701 F(5), availability of feasible alternative sites or methods of implementing the use; F(7) economic need for use and extent of impacts of use on economy of locality; F(11) extent of impacts on existing and traditional uses of the area and on future uses for which the area is suited; F(16) proximity to and extent of impacts on public lands or works, or historic, recreational, or cultural resources; F(17) extent of impacts on navigation, fishing, public access, and recreational opportunities; and F(19) extent of long term benefit or adverse impacts.

After reviewing these concerns and, in accordance with the Coastal Zone Management Act (CZMA) regulations at 15 CFR 930.43(d)(2), NMFS has concluded that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the LCRP, as noted below, though the State of Louisiana objects. Specifics on this conclusion are as follows.

Regarding factor F(5), there are no alternative sites for implementing the use of pelagic longline fishing within the Gulf of Mexico—pelagic longline fishing already occurs within all available federal and state waters. As noted below, alternative methods of reducing dead discards that were analyzed included group or regional quotas and would have had more adverse impacts than the preferred alternative. Regarding factor F(7), the State of Louisiana correctly states that pelagic longline fishing is an important economic activity contributing to the Louisiana economy. Pelagic longline fishing will continue to be authorized within the Gulf of Mexico, and valuable target species such as swordfish and yellowfin tuna are abundant in the region such that, should pelagic

longline vessels continue to offload to Louisiana-based federal dealers, pelagic longline fishing will continue to contribute to the Louisiana economy.

Regarding factor F(11), as stated above, pelagic longline fishing will continue to be authorized within the Gulf of Mexico such that existing and traditional uses as well as future uses of the area will continue. Therefore, NMFS believes that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the LCRP.

Regarding factor F(16), productive fishing grounds will still be available for pelagic longline fishing within the Gulf of Mexico even with the preferred alternative that would implement the Modified Spring Gulf of Mexico GRAs. As noted in Chapter 4 of the Final Environmental Impact Statement (FEIS), with redistribution of effort, NMFS anticipates a reduction of approximately $281,000 in ex-vessel value from implementing the preferred alternative, which, while approximately 3 percent of the Gulf of Mexico pelagic longline fleet total ex-vessel value of $9.74 million, means that roughly 97 percent of ex-vessel value within the Gulf of Mexico will continue to contribute to the State of Louisiana economy. Therefore, NMFS believes that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the LCRP.

Regarding factor F(17), the preferred alternative to implement the Modified Spring Gulf of Mexico GRA would restrict access to two additional areas within the Gulf of Mexico where bluefin bycatch has consistently occurred from 2006–2012 and which comprise approximately 11 percent of the area. In combination with the DeSoto Canyon pelagic longline closed areas, which were closed to reduce bycatch of juvenile swordfish and overfished billfish and coastal sharks, and other applicable HMS pelagic longline closed areas, approximately 25 percent of the Gulf of Mexico is restricted to pelagic longline gear. While these measures impact pelagic longline fishing, other fishing activities, navigation, public access, and recreational opportunities would remain unaffected. Therefore, NMFS believes that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the LCRP.

Regarding factor F(19), implementation of Amendment 7 measures would provide different benefits and adverse impacts for the pelagic longline fleet within the Gulf of Mexico depending on the measure. The preferred Codified and Annual Reallocation alternatives would provide short and long term benefits to the pelagic longline fishery through an increased codified quota of 62 mt in addition to potential for additional quota as a result of the annual reallocation alternative. Implementation of IBQs, as noted above, would provide approximately 75 percent of pelagic longline vessels an allocation sufficient for reported bluefin interactions. A portion of Louisiana homeported vessels would likely need to lease additional bluefin quota or modify fishing behavior to reduce bluefin interactions, although implementation of the Modified Spring Gulf of Mexico GRAs would limit access to areas of high bluefin interactions, thereby likely reducing bluefin interactions without additional changes by fishermen. Therefore, NMFS believes that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the LCRP.

The State of Louisiana also states that Amendment 7 is inconsistent with the enforceable policies of the Lousiana Administrative Code's Section 701G (2), adverse economic impacts on the locality of the used and affected governmental bodies; (6), adverse disruption of existing social patterns; and (10), adverse effects of cumulative impacts.

Regarding factors G(2) and (6), the implementation of Amendment 7 measures would provide different benefits and adverse impacts for the pelagic longline fleet within the Gulf of Mexico depending on the measure. While some impacts are expected to be short-and long-term moderate adverse impacts, NMFS has balanced the overall impacts to the pelagic longline fleet as well as other user groups to achieve Amendment 7 objectives in a fair and appropriate manner, and as described in Chapters 5, 7, and 8 of the FEIS, has minimized adverse social and economic impacts to the extent practicable, consistent with the National Environmental Policy Act, Regulatory Flexibility Act, and CZMA. Providing additional codified quota as well as the potential of additional quota through annual reallocation, in combination with GRAs where bluefin interactions have been historically high and IBQs that provide 75 percent of the fleet with sufficient quota to continue current fishing practices- balances the need to reduce dead discards with providing fishing opportunities to all user groups. The adverse impacts to 13 Louisiana homeported vessels that would likely need to lease approximately 7 metric tons of bluefin are warranted given the long-term benefits to the overall pelagic longline fleet under the combination of all preferred alternatives.

Regarding G(10), the Gulf of Mexico pelagic longline fleet is a heavily regulated fishery and has experienced several natural and man-made adverse impacts as well as regulatory changes in recent years. Several regulatory measures have been implemented to reduce bycatch of threatened or endangered species (*i.e.*, circle hooks in 2004) and overfished species such as bluefin (*e.g.*, weak hooks in 2011) or coastal sharks (*i.e.*, sandbar sharks in 2008 and scalloped hammerhead sharks in 2013). These measures often have short term adverse impacts but are ultimately needed for the sustainability of the fishery in the long term. In each of these actions, NMFS has minimized adverse impacts to the extent practicable while still meeting conservation objectives, consistent with applicable law.

Furthermore, the FEIS analysis demonstrates that NMFS utilized many of the factors cited by the State of Louisiana as lacking in NMFS's evaluation. Specifically, NMFS used the best available logbook, dealer, and observer data, conducted vessel-specific analyses for preferred alternatives on gear restricted areas and IBQ measures, and relied on relevant recent scientific information. NMFS also explored the availability of alternative methods of achieving the Amendment 7 objectives, and considered the economic impacts, as well as the long term benefits of the measures. The alternative methods to reduce dead discards of no action or group or regional quotas would have more adverse impacts and be less effective in achieving Amendment 7 objectives to reduce dead discards and maximize fishing opportunity. The design of the IBQ management measures and other aspects of Amendment 7 minimize the significant adverse economic impacts, disruption of social patterns, and adverse cumulative impacts, to the extent practicable, relative to other methods analyzed while also meeting Amendment 7 objectives.

As explained in Chapter 5 of the FEISit includes limited state specific analyses of the impacts of the preferred codified and IBQ measures. Due to the nature of the bluefin fisheries (widely distributed and highly variable), the FEIS analyses are principally at a fishery-wide, or permit category level. The IBQ analyses show that approximately 75 percent of the pelagic longline fleet would receive an initial allocation that would be consistent with their historical reported landings such that they would be able to continue to

operate without having to acquire additional quota. Under the preferred 137 mt alternative (see Table 5.26), the total additional amount of quota needed to continue fishing at historical levels is estimated to total 51.3 metric tons across all the vessels needing additional quota. Many vessels, however, would not need their full initial IBQ allocation to continue fishing at their historic levels. The total of this surplus quota across all vessels likely not fully use their initial IBQ allocation is estimated to be 82.8 mt in the context of the preferred 137 mt alternative. The total surplus of quota exceeds the total amount needed under the preferred 137 mt alternative, so the transfer of quota among pelagic longline vessels should reduce potential economic impacts of the IBQ program.

The states with the largest amount of additional IBQ needed include Louisiana, New York, and Florida, while vessels with home ports in Florida, New Jersey, and Louisiana would have the most surplus quota available to trade. Specific to pelagic longline vessels homeported in Louisiana, NMFS estimates that approximately 12 vessels would receive an initial allocation either at or above their historical reported landings and would have approximately 10.4 mt of surplus allocation. Conversely, approximately 13 vessels would need additional quota of 17.4 mt to maintain current fishing practices. Therefore, the total quota need among State of Louisiana homeported vessels would be 7 mt. Vessels may change their fishing practices such that the amount of quota they need is reduced or they may be able to lease quota from other vessels with surplus quota. Therefore, the adverse impacts to State of Louisiana homeported vessels would be minimized to the extent practicable while still meeting the objectives of Amendment 7.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: November 21, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 635 are amended as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 350 *et seq.*

■ 2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by adding new entries in numerical order for §§ 635.5(a)(4), 635.9(e), 635.14(d), 635.15(a)(2), (c)(2) and (k)(4), and 635.69(a) and (e)(4) to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR Part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	.....
* * * * *	
635.5(a)(4)	–0328
* * * * *	
635.9(e)	–0328
635.14(d)	–0677
635.15(a)(2), (c)(2) and (k)(4)	–0677
* * * * *	
635.69(a) and (e)(4)	–0372
* * * * *	

Title 50—Wildlife and Fisheries

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 3. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 4. In § 635.2:

■ a. Revise the definitions of "Bottom longline," "Green-stick gear," and "Pelagic longline," and

■ b. Add the definitions of "Cape Hatteras gear restricted area," "In transit," "Spring Gulf of Mexico gear restricted area," and "Transiting" in alphabetical order.

The revisions and additions read as follows:

§ 635.2 Definitions.

* * * * *

Bottom longline means a longline that is deployed with enough weights and/or anchors to maintain contact with the ocean bottom. For the purposes of this part, a vessel is considered to have bottom longline gear on board when a power-operated longline hauler, a mainline, weights and/or anchors capable of maintaining contact between the mainline and the ocean bottom, and leaders (gangions) with hooks are on board. Removal of any of these elements constitutes removal of bottom longline gear. Bottom longline vessels may have a limited number of floats and/or high flyers onboard for the purposes of marking the location of the gear but removal of these floats does not constitute removal of bottom longline gear.

* * * * *

Cape Hatteras gear restricted area means the area within the Atlantic Ocean bounded by straight lines connecting the following coordinates in the order stated: 34°50′ N. lat., 75°10′ W. long.; 35°40′ N. lat., 75°10′ W. long.; 35°40′ N. lat., 75°00′ W. long.; 37°10′ N. lat., 75°00′ W. long.; 37°10′ N. lat., 74°20′ W. long.; 34°30′ N. lat., 74°20′ W. long.; 34°50′ N. lat., 75°00′ W. long; 34°50′ N. lat., 75°10′ W.

* * * * *

Green-stick gear means an actively trolled mainline attached to a vessel and elevated or suspended above the surface of the water with no more than 10 hooks or gangions attached to the mainline. The suspended line, attached gangions and/or hooks, and catch may be retrieved collectively by hand or mechanical means. Green-stick does not constitute a pelagic longline or a bottom longline as defined in this section.

In transit means non-stop progression through an area without any fishing activity occurring.

* * * * *

Pelagic longline means a longline that is suspended by floats in the water column and that is not fixed to or in contact with the ocean bottom. For the purposes of this part, a vessel is considered to have pelagic longline gear on board when a power-operated longline hauler, a mainline, floats capable of supporting the mainline, and leaders (gangions) with hooks are on

board. Removal of any of these elements constitutes removal of pelagic longline gear.

* * * * *

Spring Gulf of Mexico gear restricted area means two areas within the Gulf of Mexico described here. The first area is bounded by straight lines connecting the following coordinates in the order stated: 26°30′ N. lat., 94°40′ W. long.; 27°30′ N. lat., 94°40′ W. long.; 27°30′ N. lat., 89° W. long.; 26°30′ N. lat., 89° W. long.; 26°30′ N. lat., 94°40′ W. long. The second area is bounded by straight lines connecting the following coordinates in the order stated: 27°40′ N. lat., 88° W. long.; 28° N. lat., 88° W. long.; 28° N. lat., 86° W. long.; 27°40′ N. lat., 86° W. long.; 27°40′N. lat., 88° W. long.

* * * * *

Transiting means progressing through an area without any fishing activity occurring.

* * * * *

■ 5. In § 635.4 revise paragraphs (j)(3) and (o)(4) to read as follows:

§ 635.4 Permits and fees.

* * * * *

(j) * * *

(3) A vessel owner issued an Atlantic Tunas permit in the General, Harpoon, or Trap category or an Atlantic HMS permit in the Angling or Charter/Headboat category under paragraph (b), (c), or (d) of this section may change the category of the vessel permit once within 45 calendar days of the date of issuance of the permit, provided the vessel has not landed bluefin tuna during those 45 calendar days as verified by NMFS via landings data. After 45 calendar days from the date of issuance of the permit, the vessel owner may not change the permit category until the following fishing season.

* * * * *

(o) * * *

(4) The owner of a vessel issued an HMS Commercial Caribbean Small Boat permit may fish for, take, retain, or possess only BAYS tunas, Atlantic swordfish, and Atlantic sharks, subject to the trip limits specified at § 635.24.

* * * * *

■ 6. In § 635.5:

■ a. Paragraph (a)(3) is revised;

■ b. Paragraph (a)(4) is redesignated as paragraph (a)(5);

■ c. New paragraphs (a)(4) and (a)(6) are added;

■ d. Paragraph (b)(2)(i)(A) is revised;

■ e. Paragraph (b)(2)(iii) is added; and

■ f. Paragraph (c)(1) is revised.

The revisions and additions read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(3) *Bluefin tuna landed by a commercial vessel and not sold.* If a person who catches and lands a large medium or giant bluefin tuna from a vessel issued a permit in any of the commercial categories for Atlantic tunas does not sell or otherwise transfer the bluefin tuna to a dealer who has a dealer permit for Atlantic tunas, the person must contact a NMFS enforcement agent, at a number designated by NMFS, immediately upon landing such bluefin tuna, provide the information needed for the reports required under paragraph (b)(2)(i) of this section, and, if requested, make the tuna available so that a NMFS enforcement agent or authorized officer may inspect the fish and attach a tag to it. Alternatively, such reporting requirement may be fulfilled if a dealer who has a dealer permit for Atlantic tunas affixes a dealer tag as required under paragraph (b)(2)(ii) of this section and reports the bluefin tuna as being landed but not sold on the reports required under paragraph (b)(2)(i) of this section. If a vessel is placed on a trailer, the person must contact a NMFS enforcement agent, or the bluefin tuna must have a dealer tag affixed to it by a permitted Atlantic tunas dealer, immediately upon the vessel being removed from the water. All bluefin tuna landed but not sold will be applied to the quota category according to the permit category of the vessel from which it was landed.

(4) *Bluefin tuna discarded dead, or landed by a commercial vessel and sold.* The owner of a vessel that has been permitted or that is required to be permitted under § 635.4 in the Atlantic Tunas General or Harpoon categories, or has been permitted or is required to be permitted under § 635.4 under the HMS Charter/Headboat category and fishing under the General category quotas and daily limits as specified at § 635.23(c), must report all discards and/or landings of bluefin tuna through the NMFS electronic catch reporting system within 24 hours of the landings or the end of trip. Such reports may be made by either calling a phone number designated by NMFS or by submitting the required information online to a Web site designated by NMFS. The owner of a vessel that has been permitted in a different bluefin tuna category must report as specified elsewhere in this section (§ 635.5).

* * * * *

(6) Atlantic Tunas permitted vessels. The owner or operator of an Atlantic Tunas vessel fishing with pelagic longline gear or an Atlantic Tunas Purse Seine category participant is subject to the VMS reporting requirements under § 635.69(e)(4) and the applicable Individual Bluefin Quota (IBQ) Program and/or leasing requirements under § 635.15(a)(2).

(b) * * *

(2) * * *

(i) * * *

(A) Landing reports. Each dealer with a valid Atlantic Tunas dealer permit issued under § 635.4 must submit the landing reports to NMFS for each bluefin received from a U.S. fishing vessel. Such reports must be submitted electronically by sending a facsimile to a number designated by NMFS not later than 24 hours after receipt of the bluefin. Landing reports must include the name and permit number of the vessel that landed the bluefin and other information regarding the catch as instructed by NMFS. Landing reports submitted via facsimile must be signed by the permitted vessel owner or operator immediately upon transfer of the bluefin. When purchasing bluefin tuna from eligible IBQ Program participants or Atlantic Tunas Purse Seine category participants, permitted Atlantic Tunas dealers must also enter landing reports into the electronic IBQ System established under 635.15, not later than 24 hours after receipt of the bluefin. The vessel owner or operator must confirm that the IBQ System landing report information is accurate by entering a unique PIN when the dealer report is submitted. The dealer must inspect the vessel's permit to verify that it is a commercial category, the required vessel name and permit number as listed on the permit are correctly recorded on the landing report, and that the vessel permit has not expired.

* * * * *

(iii) Dealers must comply with dealer requirements related to the Individual Bluefin Quota Program under § 635.15(a)(4)(iii).

* * * * *

(c) * * *

(1) *Bluefin tuna.* The owner of a vessel permitted, or required to be permitted in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category under § 635.4 must report the catch of all bluefin tuna discarded dead and/or retained under the Angling category quota designated at § 635.27(a) through the NMFS electronic catch reporting system within 24 hours of the landing.

* * * * *

■ 7. Add § 635.9 to subpart A—with paragraphs (b)(2)(ii) and (e)(1) effective June 1, 2015—to read as follows:

§ 635.9 Electronic monitoring.

(a) *Applicability.* An owner or operator of a commercial vessel permitted or required to be permitted in the Atlantic Tunas Longline category under § 635.4, and that has pelagic longline gear on board, is required to have installed, operate, and maintain an electronic monitoring (EM) system on the vessel, as specified in this section. Vessel owner or operators can contact NMFS or a NMFS-approved contractor for more details on procuring an EM system.

(b) *EM Installation.* (1) NMFS or a NMFS-approved contractor will assess individual Atlantic Tunas Longline permitted vessels that are currently eligible for IBQ share, install and test all EM systems; provide training to vessel owners or operators or their designees; and develop in consultation with vessel owners or operators or their designees required operational plans (Vessel Monitoring Plan or VMP) for the EM systems, as described in paragraph (e)(2) of this section.

(2) Vessel owners or operators, as instructed by NMFS, will be required to coordinate with NMFS or a NMFS-approved contractor to schedule a date or range of dates for EM installation, and/or may be required to steam to a designated port for EM installation on NMFS-determined dates. NMFS may require vessel owners to make minor modifications to vessel equipment to facilitate installation and operation of the EM system, such as, but not limited to, installation of a fitting for the pressure side of the line of the drum hydraulic system, a power supply for the EM system and power switches/connections, additional lighting, and/or a mounting structure(s) for installation of the camera(s). EM installation must be completed by June 1, 2015 in order to fish with pelagic longline gear after that date.

(i) *Certificate of Installation.* After confirming that an EM system that meets the requirements of this section is properly installed, the system has been tested, and training and a required operational plan (VMP) are completed, NMFS or the NMFS-approved contractor will provide a Certificate of Installation to the vessel owner or operator.

(ii) Vessels described under paragraph (a) of this section may not depart on a fishing trip without having a valid Certificate of Installation and VMP on board.

(c) *EM System Components.* The EM system installed by the NMFS-approved contractor must be comprised of video camera(s), recording equipment, and other related equipment and must have the following components and capabilities:

(1) *Video camera(s).* (i) Video cameras must be mounted and placed so as to provide clear, unobstructed views of the area(s) where the pelagic longline gear is retrieved and of catch being removed from hooks prior to being placed in the hold or discarded. There must be lighting sufficient to illuminate clearly individual fish.

(ii) Video camera(s) must be in sufficient numbers (a minimum of two and up to four), with sufficient resolution (no less than 720p (1280 × 720)) for NMFS, the USCG, and their authorized officers and designees, or any individual authorized by NMFS to determine the number and species of fish harvested. To obtain the views described in paragraph (c)(1)(i), at least one camera must be mounted to record close-up images of fish being retained on the deck at the haulback station, and at least one camera must be mounted to record activity at the waterline along the side of the vessel at the haul back station. NMFS or the NMFS-approved contractor will determine if more cameras are needed.

(iii) The EM system must be capable of initiating video recording at the time gear retrieval starts. It must record all periods of time when the gear is being retrieved and catch is removed from the hooks until it is placed in the hold or discarded.

(2) *GPS receiver.* A GPS receiver is required to produce output, which includes location coordinates, velocity, and heading data, and is directly logged continuously by the control box. The GPS receiver must be installed and remain in a location where it receives a strong signal continuously.

(3) *Hydraulic and drum rotation sensors.* Hydraulic sensors are required to continuously monitor the hydraulic pressure and a drum rotation sensor must continuously monitor drum rotations.

(4) *EM control box.* The system must include a control box that receives and stores the raw data provided by the sensors and cameras. The control box must contain removable hard drives and storage systems adequate for a trip lasting 30 days.

(5) *EM systems monitor.* A wheelhouse monitor must provide a graphical user interface for harvester to monitor the state and performance of the control box and provide information on the current date and time synchronized via GPS, GPS coordinates, current hydraulic pressure reading, presence of a data disk, percentage used of the data disk, and video recording status.

(6) The EM system must have software that enables the system to be tested for functionality and that records the outcome of the tests.

(d) *Data maintenance, storage, and viewing.* The EM system must have the capacity to allow NMFS, the USCG, and their authorized officers and designees, or any NMFS-approved contractor to observe the live video on the EM systems monitor as described in paragraph (c)(5) of this section. Vessel owner or operators must provide access to the system, including the data upon request.

(e) *Operation.* (1) Unless otherwise authorized by NMFS in writing, a vessel described in paragraph (a) of this section must collect video and sensor data in accordance with the requirements in this section, in order to fish with pelagic longline gear.

(2) *Vessel monitoring plan.* The vessel owner or operator must have available onboard a written VMP for its system, which is an operational plan developed by the NMFS-approved contractor containing the standardized procedures relating to the vessel's EM system. VMPs may include, but are not limited to, information on the locations of EM system components; contact information for technical support; instructions on how to conduct a pre-trip system test; instructions on how to verify proper system functions; location(s) on deck where fish retrieval should occur to remain in view of the cameras; procedures for how to manage EM system hard drives; catch handling procedures; a size reference for facilitating determination of fish size; periodic checks of the monitor during the retrieval of gear to verify proper functioning; reporting procedures. The VMP should minimize to the extent practicable any impact on the current operating procedures of the vessel, and should help ensure the safety of the crew.

(3) *Handling of fish and duties of care.* The vessel owner or operator must ensure that all fish that are caught, even those that are released, are handled in a manner that enables the video system to record such fish, and must ensure that all handling and retention of bluefin tuna occurs in accordance with relevant regulations and the operational procedures outlined in the VMP. The vessel owner or operator is responsible for ensuring the proper continuous functioning of the EM system, including that the EM system must remain powered on for the duration of each fishing trip from the time of departure to time of return; cameras must be cleaned routinely; and EM system components must not be tampered with.

(4) *Completion of trip.* Within 48 hours of completing a fishing trip,, the vessel owner or operator must mail the removable EM system hard drive(s) containing all data to NMFS or NMFS-approved contractor, according to instructions provided by NMFS. The vessel owner or operator is responsible for using shipping materials suitable to protect the hard drives (*e.g.,,* bubble wrap), tracking the package, and including a self-addressed mailing label for the next port of call so replacement hard drives can be mailed back to the vessel owner or operator. Prior to departing on a subsequent trip, the vessel owner or operator must install a replacement EM system hard drive(s) to enable data collection and video recording. The vessel owner or operator is responsible for contacting NMFS or NMFS-approved contractor if they have requested but not received a replacement hard drive(s) and for informing NMFS or NMFS-approved contractor of any lapse in the hard drive management procedures described in the VMP.

(f) *Failure to adequately monitor the gear and catch.* The vessel owner or operator must monitor and maintain the EM system in working condition, which includes ensuring the proper continuous functioning of the EM system, cameras provide clear unobstructed views, and video picture quality is clear. Prior to departing on a trip with pelagic longline gear on board, the vessel owner or operator must test the functionality of the system and contact NMFS or the NMFS-approved contractor if the system is not functioning properly. In that case, or if NMFS independently determines that an EM system fails to meet the requirements of this section, the vessel cannot leave port unless and until NMFS provides written authorization. NMFS may grant such authorization after confirming that an EM system is functioning properly or other circumstances as determined by NMFS warrant authorization.

(g) *Repair and replacement.* If the vessel owner or operator becomes aware that the EM system on the vessel is not functioning properly at sea, the vessel owner or operator must contact NMFS and follow the instructions given. Such instructions may include but are not limited to returning to port until the EM system is repaired. Once in port, an EM system must be functioning properly (*e.g.,* repaired, reinstalled, or replaced) consistent with the installation requirements in this section before the vessel can fish with pelagic longline gear.

Subpart B—Individual Vessel Measures

■ 8. Revise the subpart B heading to read as set forth above.

■ 9. Add § 635.14 to subpart B to read as follows:

§ 635.14 Performance metrics.

(a) *General.* For purposes of § 635.21(c)(3), NMFS will determine "qualified" vessels based on the performance metrics in paragraph (b) of this section. Specifically, NMFS will use fishery dependent and fishery independent data to evaluate vessel performance based on avoidance of bluefin tuna interactions while fishing with a pelagic longline gear and history of compliance with the observer and logbook requirements of §§ 635.7 and 635.5, respectively.

(b) *Calculation of performance metrics.* In year one of implementation, NMFS will analyze the relevant data from the period 2006 to 2012 to determine a vessel's score and qualification status. Subsequently, NMFS will analyze available data from the most recent complete three consecutive year period to determine a vessel's score and qualification status. NMFS will communicate the results of the annual determination to individual permit holders in writing. NMFS may revise, through the framework procedures under § 635.34, the scoring system to reflect changes in the fishery or ensure that it provides the desired incentives and meets the goals of this program. The process used to calculate the performance metrics are described fully in Amendment 7 to the 2006 Consolidated HMS FMP. The main metrics are summarized below.

(1) *Bluefin tuna interactions performance metric.* The basis for the bluefin tuna interactions performance metric is the ratio of the number of bluefin tuna interactions (*i.e.,* the number of fish landed, discarded dead, and discarded alive) to the total weight of designated target species landings (in pounds). For the purposes of this section, the designated target species are: Swordfish; yellowfin, bigeye, albacore, and skipjack tunas; dolphin; wahoo; and porbeagle, shortfin mako, and thresher sharks. A relatively low bluefin tuna interaction to designated species ratio ('bluefin tuna ratio') indicates that the vessel has successfully avoided catching bluefin tuna while fishing with pelagic longline gear in the performance metric period.

(2) *Observer compliance performance metric.* NMFS will score vessels based on both the vessel owner's and the operator's compliance with the observer requirements outlined in § 635.7 of this part and § 600.746 of this chapter. In addition, the scoring system will consider the number of trips for which an individual vessel was selected to carry an observer, the number of trips actually observed, the reason why a particular trip was not observed, and other relevant observer information. The scoring system is neutral with respect to valid reasons that a vessel may have been selected by the observer program, but did not take an observer (*e.g.,* no observer was available or the vessel was not fishing with pelagic longline gear). The scoring system is designed to weigh trips that were not observed due to noncompliance with the communication requirements more heavily than those not observed due to noncompliance with the safety and accommodation requirements. The scoring system is also designed to consider evidence of fishing activity that may have occurred without required communication or observer coverage.

(3) *Logbook compliance performance metric.* NMFS will score vessels based on both the vessel owner's and vessel operator's compliance with the logbook reporting requirements outlined in § 635.5. This metric will reflect the timeliness of the submission of the logbooks (for example, the amount of time elapsed between the offloading of the catch and the logbook submission).

(4) *Combining performance metrics.* The performance metrics described under paragraphs (b)(1) through (3) of this section will be combined through the use of a decision formula described in Amendment 7 to the 2006 Consolidated HMS FMP. The decision formula will result in a designation for each vessel of "qualified" or "not qualified."

(c) *Annual notification.* NMFS will notify permitted vessel owners annually of the score of their vessel (*i.e.,* "qualified" or "not qualified") by certified mail. The score applies for only one year. NMFS will make aggregate data regarding access to gear restricted areas available to the general public.

(d) *Appeals.* Permitted vessel owners can appeal their performance score determinations pursuant to the procedures, timing, and other requirements at § 635.15(k)(4)(i), (ii), and (iv). Any initial administrative determination or appeal would be evaluated based upon the following criteria:

(1) The accuracy of NMFS records regarding the relevant information; and

(2) correct assignment of historical data to the vessel owner/permit holder. The current owner of a permitted vessel

may also appeal on the basis of historical changes in vessel ownership or permit transfers. Appeals based on hardship factors will not be considered.

■ 10. Add § 635.15 to subpart B—with paragraphs (b)(3), (b)(4)(ii) and (b)(5)(i) effective January 1, 2016—to read as follows:

§ 635.15 Individual bluefin tuna quotas.

(a) *General.* This section establishes an IBQ Program for eligible Atlantic Tunas Longline permit holders that use pelagic longline gear under this part and addresses Atlantic Tunas Purse Seine category leasing.

(1) *Overview.* Under the IBQ Program, NMFS will assign eligible Atlantic Tunas Longline permit holders initial IBQ shares equivalent to a percentage of the annual Longline category quota. Purse Seine Category quota shares are allocated separately pursuant to § 635.27(a)(4).

(2) *Electronic IBQ System.* IBQ Program participants, Atlantic Tunas Purse Seine category participants, and other permit holders eligible to lease IBQ allocations under paragraph (c) of this section, must have access to the electronic IBQ system and set up an IBQ account on that system as instructed by NMFS.

(b) *IBQ allocation and usage.* An IBQ quota allocation is the amount of bluefin tuna (whole weight) in metric tons (mt), which an IBQ Program participant is allotted to account for incidental catch of bluefin tuna during a given calendar year. Unless otherwise required under paragraph (b)(5) of this section, an Atlantic Tunas Longline permitted vessel's initial IBQ allocation for a particular year is derived by multiplying its IBQ share (percentage) by the Longline category quota for that year.

(1) *Annual calculation and notification of IBQ allocations.* Annually, as described in detail in paragraph (f) of this section, NMFS will notify IBQ share recipients of their IBQ allocation for the next calendar year. IBQ allocations expire at the end of each calendar year.

(2) *Regional designations.* As described further under paragraph (k)(3) of this section, all IBQ shares and resultant allocations are designated as either "Gulf of Mexico" or "Atlantic" based upon the geographic location of sets as reported to NMFS under the requirements of § 635.5. Regional percentages determine the share and allocation within the two pelagic longline (PLL) share categories: Gulf of Mexico (PLL GOM) and Atlantic (PLL ATL). PLL GOM shares and resultant allocations can be used to fish with pelagic longline gear in either the Gulf of Mexico or the Atlantic regions. PLL ATL shares and resultant allocations can only be used to fish with pelagic longline gear in the Atlantic region. Purse Seine category annual allocations can only be used to fish in the Atlantic region, even if leased to a PLL participant. For the purposes of this section, the Gulf of Mexico region includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c) and the Atlantic region includes all other waters of the Atlantic Ocean with the exception regarding fishing taking place in the Northeast Distant (NED) gear restricted area defined at § 635.2 and is further described in paragraph (b)(8) of this section.

(3) *Minimum IBQ allocation.* Before departing on a fishing trip, a vessel with an eligible Atlantic Tunas Longline category permit that fishes with or has pelagic longline gear onboard, must have the minimum IBQ allocation for either the Gulf of Mexico or Atlantic, depending on fishing location. The minimum IBQ allocation for a vessel fishing in the Gulf of Mexico, or departing for a fishing trip in the Gulf of Mexico, is 0.25 mt ww (551 lb ww). The minimum IBQ allocation for a vessel fishing in the Atlantic or departing for a fishing trip in the Atlantic is 0.125 mt ww (276 lb ww). A vessel owner or operator may not declare into or depart on a fishing trip with pelagic longline gear onboard unless it has the relevant required minimum IBQ allocation for the region in which the fishing activity will occur.

(4) *Accounting for bluefin tuna caught.* (i) With the exception of vessels fishing in the NED, in compliance with the requirements of paragraph (b)(8) of this section, all bluefin tuna catch (dead discards and landings) must be accounted for and deducted from the vessel's IBQ allocation.

(ii) If the amount of bluefin tuna catch on a particular trip exceeds the amount of the vessel's IBQ allocation, the vessel may continue to fish and complete the trip, but must resolve any quota debt (see paragraph (b)(5) of this section before declaring into or departing on a subsequent fishing trip with pelagic longline gear onboard by acquiring additional IBQ allocation through leasing, as described in paragraph (c) of this section.

(iii) IBQ Program participants, Atlantic Tunas Purse Seine category participants, and dealers must comply with reporting requirements at § 635.5(b)(2)(i)(A). The vessel owner or operator of a vessel that caught bluefin tuna must enter dead discard information from the trip simultaneously with the dealer entering that trip's landings information into the electronic IBQ system (pursuant to § 635.5(b)(2)(i)(A)). The vessel owner or operator must also confirm the accuracy of the dealer reported data at the time of entry in the electronic IBQ System. No IBQ transactions will be processed between 6 p.m. eastern time on December 31 and 2 p.m. Eastern Time on January 1 of each year to provide NMFS time to reconcile IBQ accounts and update IBQ shares and allocations for the upcoming fishing year.

(5) *Exceeding an available allocation.* This paragraph (b)(5) applies to a vessel with, or an permit holder of, an Atlantic Tunas Longline category permit or an Atlantic Tunas Purse Seine category permit unless otherwise specified. If the amount of bluefin tuna catch for a particular trip (as defined at § 600.10 of this chapter) exceeds the amount of allocation available to the vessel, the permitted vessel is considered to have a "quota debt" equal to the difference between the catch and the allocation. For example, if a vessel has an allocation of 0.40 mt (882 lb), and catches 0.50 mt (1,102 lb) of bluefin tuna on a trip, that vessel would have a quota debt of 0.10 mt (220 lb).

(i) *Trip level quota debt.* Vessels with a quota debt cannot fish with or have gear for which the vessel is permitted onboard until the quota debt is settled by leasing allocation for the appropriate region (per paragraph (c) of this section) and applying the leased allocation to settle the quota debt or through additional allocation (per paragraph (f) of this section) such that the permitted vessel has at least the minimum quota allocation required to fish as specified in paragraph (b)(3) of this section.

(ii) *Annual level quota debt.* If, by the end of the fishing year, a permit holder does not have adequate allocation (obtained either through leasing under paragraph (c) of this section) or additional allocation under paragraph (f) of this section to settle their vessel's quota debt, the vessel's allocation will be reduced in the amount equal to the quota debt in the subsequent year or years until the quota debt is fully accounted for. A vessel may not fish if it has outstanding quota debt, even across fishing years.

(iii) *Association with permit.* Quota debt is associated with the vessel's permit, and remains associated with the permit if/when the permit is transferred or sold. At the end of the year, if an owner with multiple permitted vessels has a quota debt on one or more vessels owned, the IBQ system will apply any remaining unused allocation associated

with that owner's other vessels to resolve the quota debt.

(6) *Duration.* IBQ allocation issued under this section is valid for the relevant fishing year unless it is revoked, suspended, or modified or unless the Atlantic Tunas Longline category quota is closed per § 635.28(a).

(7) *Unused IBQ allocation.* Any IBQ allocation that is unused at the end of the fishing year may not be carried forward by a permit-holder to the following year, but would remain associated with the Longline category as a whole, and subject to the quota regulations under § 635.27, including annual quota adjustments.

(8) *The IBQ Program and the Northeast Distant Area (NED).* The following restrictions apply to vessels fishing with pelagic longline gear in the NED:

(i) When NED bluefin quota is available. Permitted vessels fishing with pelagic longline gear may fish in the NED, and any bluefin catch will count toward the ICCAT-allocated separate NED quota until the NED quota has been filled. Permitted vessels fishing in the NED are still required to have the minimum IBQ allocation, specified under paragraph (b)(3) of this section to depart on a trip using pelagic longline gear.

(ii) When NED bluefin quota is filled. Permitted vessels fishing with pelagic longline gear may fish in the NED after the ICCAT-allocated separate NED quota has been filled but the permitted vessels must abide by all the requirements of the IBQ program. Bluefin catch will be accounted for using the vessel's IBQ allocation, as described under paragraphs (b)(2) and (k)(3) of this section.

(c) *IBQ Allocation Leasing*—(1) *Eligibility.* The permit holders of vessels issued valid Atlantic Tunas Longline permits and participants in the Atlantic Tunas Purse Seine category are eligible to lease IBQ allocation to and/or from each other. A person who holds an Atlantic Tunas Longline permit that is not associated with a vessel may not lease IBQ allocation.

(2) *Application to lease*—(i) *Application information requirements.* All IBQ allocation leases must occur electronically through the electronic IBQ system, and include all information required by NMFS.

(ii) *Approval of lease application.* Unless NMFS denies an application to lease IBQ allocation according to paragraph (c)(2)(iii) of this section, the electronic IBQ system will provide an approval code to the IBQ lessee confirming the transaction.

(iii) *Denial of lease application.* NMFS may deny an application to lease IBQ allocation for any of the following reasons, including, but not limited to: The application is incomplete; the IBQ lessor or IBQ lessee is not eligible to lease per paragraph (c)(1) of this section; the IBQ lessor or IBQ lessee permits is sanctioned pursuant to an enforcement proceeding; or the IBQ lessor has an insufficient IBQ allocation available to lease (*i.e.,* the requested amount of lease may not exceed the amount of IBQ allocation associated with the lessor). As the electronic IBQ system is automated, if any of the criteria above are applicable, the lease transaction will not be allowed to proceed. The decision by NMFS is the final agency decision; there is no opportunity for an administrative appeal.

(3) *Conditions and restrictions of leased IBQ allocation*—(i) *Subleasing.* In a fishing year, an IBQ allocation may be leased numerous times following the process specified in paragraph (c)(2) of this section.

(ii) *History of leased IBQ allocation use.* The fishing history associated with the catch of bluefin tuna will be associated with the vessel that caught the bluefin tuna regardless of how the vessel acquired the IBQ allocation (*e.g.,* through initial allocation or lease), for the purpose of calculation of the performance metrics described under § 635.14(b), or other relevant restrictions based upon bluefin catch.

(iii) *Duration of IBQ allocation lease.* IBQ allocations expire at the end of each calendar year. Thus, an IBQ lessee may only use the leased IBQ allocation during the fishing year in which the IBQ allocation is applicable.

(iv) *Temporary prohibition of leasing IBQ allocation.* No leasing of IBQ allocation is permitted between 6 p.m. eastern time on December 31 of one year and 2 p.m. Eastern Time on January 1 of the next. . This period is necessary to provide NMFS time to reconcile IBQ accounts, and update IBQ shares and allocations for the upcoming fishing year.

(v) *Related restrictions.* Other regulations specific to the Atlantic Tunas Purse Seine category are set forth at § 635.27(a)(4)(v).

(d) *Sale of IBQ shares.* Sale of IBQ shares currently not permitted.

(e) *Changes in vessel and permit ownership.* In accordance with the regulations specified under § 635.4(l), a vessel owner that has an IBQ share may transfer the Atlantic Tunas Longline category permit to another vessel that he or she owns or transfer the permit to another person. The IBQ share as described under this section would transfer with the permit to the new vessel, and remain associated with that permit. Within a fishing year, when an Atlantic Tunas Longline permit transfer occurs (from one vessel to another), the associated IBQ shares are transferred with the permit, however IBQ allocation is not, unless the IBQ allocation is also transferred through a separate transaction within the electronic IBQ system. As described under paragraphs (c)(1) and (k)(1) of this section, a person or entity that holds an Atlantic Tunas Longline permit that is not associated with a vessel may not receive or lease IBQ allocation.

(f) *Annual notification of shares and allocations.* On January 1 of each year, NMFS will notify eligible IBQ Participants, as specified in paragraph (k)(1) of this section, of their IBQ share and the resulting IBQ allocation (mt) for the relevant fishing year, as well as the regional designations based on the available Atlantic Tunas Longline category quota, and any existing quota debt. NMFS will provide this information through the electronic IBQ system and via annual permit holder letters. Unless specified otherwise, those IBQ shares and resultant allocations will be available for use at the start of each fishing year. Permit holders (of eligible Atlantic Tunas Longline category permits) that have not completed the process of permit renewal or permit transfer as of December 31 will be issued IBQ allocation upon completion of the permit renewal or permit transfer, provided the eligible permit is associated with a vessel.

(g) *Evaluation.* NMFS will continually monitor the IBQ Program with respect to the objectives listed in the FEIS and make any changes through future rulemakings as deemed necessary to meet those objectives. Three years after full implementation, NMFS will publish a written report describing any findings.

(h) *Property rights.* IBQ shares and resultant allocations issued pursuant to this part may be revoked, limited, modified or suspended at any time subject to the requirements of the Magnuson-Stevens Act, ATCA, or other applicable law. Such IBQ shares and resultant allocations do not confer any right to compensation and do not create any right, title, or interest in any bluefin tuna until it is landed or discarded dead.

(i) *Enforcement and monitoring.* NMFS will enforce and monitor the IBQ Program through the use of the reporting and record keeping requirements described under § 635.5, the monitoring requirements under §§ 635.9 and 635.69, and its authority to close the

pelagic longline fishery specified under § 635.28.

(j) *Cost recovery.* In a future action, NMFS will develop and implement cost recovery for the IBQ program that will cover costs of management, data collection and analysis, and enforcement activities. Fees shall be collected from quota share and/or allocation holders for the IBQ program pursuant to Magnuson-Stevens Act sections 303A(e) and 304(d)(2). Such fees shall not exceed 3 percent of the ex-vessel value of fish harvested under the program.

(k) *Initial IBQ shares.* During year one of implementation of the IBQ Program described in this section, NMFS will issue IBQ shares to eligible Atlantic Tunas Longline permit holders, as specified in paragraph (k)(1) of this section. New entrants to the pelagic longline fishery would need to obtain an Atlantic Tunas Longline permit, as well as other required limited access permits, as described under § 635.4(l), and would need to lease IBQ allocations per paragraph (c) of this section if the permits acquired did not qualify for an initial IBQ share.

(1) *Eligible IBQ share Recipients.* (i) Atlantic Tunas Longline category permit holders whose valid permit was associated with a vessel as of August 21, 2013, and that was determined to be "active" would be eligible to receive an initial IBQ share. "Active" vessels are those vessels that have used pelagic longline gear on at least one set between 2006 and 2012 as reported to NMFS on logbooks, per the requirements of § 635.5. In determining a permitted vessel's initial IBQ share eligibility and calculating the initial IBQ share, NMFS used the data associated with the qualifying vessel's history (and not the permit). Therefore, for the purposes of this section, the vessel owner at the time of reporting is not relevant. If the logbook reports indicate that a particular vessel used pelagic longline gear for at least one set between 2006 and 2012, and the vessel was issued a valid Atlantic Tunas Longline category permit as of August 21, 2013, the current permit holder is qualified to receive an initial IBQ share.

(ii) Except as described in paragraph (k)(4) of this section regarding appeals, if the logbook reports indicate that a particular vessel did not use pelagic longline gear for at least one set between 2006 and 2012, and/or the vessel was not issued a valid Atlantic Tunas Longline category permit on August 21, 2013, the current permit holder is not eligible to receive an initial IBQ share even if the current permit holder fished with pelagic longline gear on a different vessel between 2006 and 2012. Persons that held an Atlantic Tunas Longline category permit that was not associated with a vessel as of August 21, 2013 are not eligible for an initial IBQ share. Atlantic Tunas Longline category permits holders that are ineligible to receive an initial IBQ share would need to lease IBQ allocation per paragraph (c) of this section, as well as meet all other applicable requirements, before the vessel could fish with or possess pelagic longline gear onboard.

(2) *IBQ share determination* (i) Initial IBQ shares. NMFS has reviewed each permitted vessel's reported bluefin tuna interactions (all discards and landings) and landings of designated species (swordfish, yellowfin, bigeye, albacore, and skipjack tunas; dolphin; wahoo; and porbeagle, shortfin mako and thresher sharks) and placed each permitted vessel into one of three tiers: Low, medium and high based on the ratio of bluefin tuna interactions. The IBQ share will be assigned based on the three tiers.

(ii) Appeals to initial IBQ shares. When NMFS determines that all appeals pursuant to paragraph (k)(4) of this section have been resolved, NMFS may adjust the initial IBQ share percentages described under paragraph (k)(2)(i) as necessary to accommodate those appellants that have been deemed eligible for an initial IBQ share or are provided an increased IBQ share.

(3) *Regional designations.* All initial IBQ shares and resultant allocations are designated as either "Gulf of Mexico" or "Atlantic" based upon the geographic location of sets as reported to NMFS under the requirements of § 635.5. Eligible permit holders may use Gulf of Mexico IBQ shares and resultant allocations to fish in either the Gulf of Mexico or the Atlantic regions. Eligible permit holders may use Atlantic IBQ shares and resultant allocations only to fish in the Atlantic region. If a permitted vessel had fishing history in both the Gulf of Mexico and Atlantic, it may receive both the Gulf of Mexico and Atlantic IBQ shares, depending upon the amount of IBQ share and the proportion of fishing history in the two areas. Based on the procedures described under paragraphs (k)(1) and (2) of this section, if a permit holder would be issued a regional IBQ share that results in a regional allocation less than a minimum amount for a particular area (*i.e.*, less than 0.125 mt for the Atlantic or less than 0.25 mt for the Gulf of Mexico), the de minimis regional IBQ share and resultant allocation would be designated to the other regional designation.

(4) *Appeals of initial IBQ share.* Atlantic Tunas Longline Permit holders may appeal their initial IBQ shares through the two-step process described below. NMFS will provide further explanation on how to submit an appeal when it informs permit holders of their initial IBQ shares.

(i) *Initial administrative determination (IAD).* The HMS Management Division will evaluate requests from Atlantic Tunas Longline Permit holders regarding their initial IBQ shares. Any request must be postmarked no later than March 2, 2015, be in writing, and indicate the reason for the request, and contain documentation supporting the request (see paragraphs (k)(4)(iii) and (iv) of this section). The HMS Management Division will evaluate the request and supporting documentation, and notify the appellant by a written IAD regarding a decision to approve or deny the request. The IAD will explain the basis for any denial decision.

(ii) *Appeal of IAD.* Within 90 days after the date of issuance of the IAD, the permit holder may appeal the IAD to the NMFS National Appeals Office, pursuant to procedures at 15 CFR part 906.

(iii) *Items subject to IAD and appeal.* The only items subject to an IAD or appeal are: Initial IBQ share eligibility based on ownership of an active vessel with a valid Atlantic Tunas Longline category permit combined with the required shark and swordfish limited access permits; the accuracy of NMFS records regarding that vessel's amount of designated species landings and/or bluefin interactions; and correct assignment of target species landings and bluefin interactions to the vessel owner/permit holder. As described under paragraph (k)(1) of this section, the IBQ share formulas are based upon historical data associated with a permitted vessel. Because vessels may have changed ownership or permits may have been transferred during 2006 through 2012, the current owner of a permitted vessel may also appeal on the basis of historical changes in vessel ownership or permit transfers. Appeals based on hardship factors (*e.g.*, illness of vessel owner, divorce, etc.) will not be considered.

(iv) *Supporting documentation for IAD or appeal.* NMFS will consider official NMFS logbook records or weighout slips for landings between January 1, 2006, through December 31, 2012, that were submitted to NMFS prior to March 2, 2013 (60 days after the cutoff date for eligible landings) and verifiable sales slips, receipts from registered dealers, state landings records, and permit records as supporting documentation for a request

or appeal under paragraph (k)(4) of this section. NMFS will count only those designated species landings that were landed legally when the owner had a valid permit. No other proof of catch history or species interactions will be considered, except for NMFS logbook records, observer data, or other NMFS data. NMFS permit records will be the sole basis for determining permit transfers. Copies of documents may be submitted, provided they are of equal legibility and quality as the originals, and such copies shall have the same force and effect as if they were originals. NMFS may request the originals at a later date. NMFS may refer any submitted materials that are of questionable authenticity to the NMFS Office of Enforcement for investigation.

■ 11. Add § 635.19 to subpart C to read as follows:

§ 635.19 Authorized gears.

(a) *General.* No person may fish for, catch, possess, or retain any Atlantic HMS with gears other than the primary gears specifically authorized in this part. Consistent with § 635.21(a), secondary gears may be used at boat side to aid and assist in subduing, or bringing on board a vessel, Atlantic HMS that have first been caught or captured using primary gears. For purposes of this part, secondary gears include, but are not limited to, dart harpoons, gaffs, flying gaffs, tail ropes, etc. Secondary gears may not be used to capture, or attempt to capture, free-swimming or undersized HMS. Except for vessels permitted under § 635.4(o) or as specified in this section, a vessel using or having onboard in the Atlantic Ocean any unauthorized gear may not possess an Atlantic HMS on board.

(b) *Atlantic tunas.* A person that fishes for, retains, or possesses an Atlantic bluefin tuna may not have on board a vessel or use on board a vessel any primary gear other than those authorized for the category for which the Atlantic tunas or HMS permit has been issued for such vessel. Primary gears are the gears specifically authorized in this section. When fishing for Atlantic tunas other than bluefin tuna, primary gear authorized for any Atlantic Tunas permit category may be used, except that purse seine gear may be used only on board vessels permitted in the Purse Seine category and pelagic longline gear may be used only on board vessels issued an Atlantic Tunas Longline category tuna permit, a LAP other than handgear for swordfish, and a LAP for sharks. A person issued an HMS Commercial Caribbean Small Boat permit who fishes for, retains, or possesses BAYS tunas in the U.S. Caribbean, as defined at § 622.2 of this chapter, may have on board and use handline, harpoon, rod and reel, bandit gear, green-stick gear, and buoy gear.

(1) *Angling.* Speargun (for BAYS tunas only), and rod and reel (including downriggers) and handline (for all tunas).

(2) *Charter/headboat.* Rod and reel (including downriggers), bandit gear, handline, and green-stick gear are authorized for all recreational and commercial Atlantic tuna fisheries. Speargun is authorized for recreational Atlantic BAYS tuna fisheries only.

(3) *General.* Rod and reel (including downriggers), handline, harpoon, bandit gear, and green-stick.

(4) *Harpoon.* Harpoon.

(5) *Longline.* Longline and green-stick.

(6) *Purse seine.* Purse seine.

(7) *Trap.* Pound net and fish weir.

(c) *Billfish.* (1) Only persons who have been issued a valid HMS Angling or valid Charter/Headboat permit, or who have been issued a valid Atlantic Tunas General category or Swordfish General Commercial permit and are participating in a tournament as provided in § 635.4(c), may possess a blue marlin, white marlin, or roundscale spearfish in, or take a blue marlin, white marlin, or roundscale spearfish from, its management unit. Blue marlin, white marlin, or roundscale spearfish may only be harvested by rod and reel.

(2) Only persons who have been issued a valid HMS Angling or valid Charter/Headboat permit, or who have been issued a valid Atlantic Tunas General category or Swordfish General Commercial permit and are participating in a tournament as provided in § 635.4(c), may possess or take a sailfish shoreward of the outer boundary of the Atlantic EEZ. Sailfish may only be harvested by rod and reel.

(d) *Sharks.* No person may possess a shark in the EEZ taken from its management unit without a permit issued under § 635.4. No person issued a Federal Atlantic commercial shark permit under § 635.4 may possess a shark taken by any gear other than rod and reel, handline, bandit gear, longline, or gillnet. No person issued an HMS Commercial Caribbean Small Boat permit may possess a shark taken from the U.S. Caribbean, as defined at § 622.2 of this chapter, by any gear other than with rod and reel, handline or bandit gear. No person issued an HMS Angling permit or an HMS Charter/Headboat permit under § 635.4 may possess a shark if the shark was taken from its management unit by any gear other than rod and reel or handline, except that persons on a vessel issued both an HMS Charter/Headboat permit and a Federal Atlantic commercial shark permit may possess sharks taken with rod and reel, handline, bandit gear, longline, or gillnet if the vessel is not engaged in a for-hire fishing trip.

(e) *Swordfish.* (1) No person may possess north Atlantic swordfish taken from its management unit by any gear other than handgear, green-stick, or longline, except that such swordfish taken incidentally while fishing with a squid trawl may be retained by a vessel issued a valid Incidental HMS squid trawl permit, subject to restrictions specified in § 635.24(b)(2). No person may possess south Atlantic swordfish taken from its management unit by any gear other than longline.

(2) An Atlantic swordfish may not be retained or possessed on board a vessel with a gillnet. A swordfish will be deemed to have been harvested by gillnet when it is onboard, or offloaded from, a vessel fishing with or having on board a gillnet.

(3) A person aboard a vessel issued or required to be issued a valid directed handgear LAP for Atlantic swordfish or an HMS Commercial Caribbean Small Boat permit may not fish for swordfish with any gear other than handgear. A swordfish will be deemed to have been harvested by longline when the fish is on board or offloaded from a vessel fishing with or having on board longline gear. Only vessels that have been issued a valid directed or handgear swordfish LAP or an HMS Commercial Caribbean Small Boat permit under this part may utilize or possess buoy gear.

(4) Except for persons aboard a vessel that has been issued a directed, incidental, or handgear limited access swordfish permit, a Swordfish General Commercial permit, an Incidental HMS squid trawl permit, or an HMS Commercial Caribbean Small Boat permit under § 635.4, no person may fish for North Atlantic swordfish with, or possess a North Atlantic swordfish taken by, any gear other than handline or rod and reel.

(5) A person aboard a vessel issued or required to be issued a valid Swordfish General Commercial permit may only possess North Atlantic swordfish taken from its management unit by rod and reel, handline, bandit gear, green-stick, or harpoon gear.

■ 12. Section 635.21 is revised to read as follows:

§ 635.21 Gear operation, restricted areas, and deployment restrictions.

(a) *All Atlantic HMS fishing gears.* (1) An Atlantic HMS harvested from its management unit that is not retained must be released in a manner that will ensure maximum probability of

survival, but without removing the fish from the water.

(2) If a billfish is caught by a hook and not retained, the fish must be released by cutting the line near the hook or by using a dehooking device, in either case without removing the fish from the water.

(3) *Restricted gear and closed areas for all Atlantic HMS fishing gears.* (i) No person may fish for, catch, possess, or retain any Atlantic HMS or anchor a fishing vessel that has been issued a permit or is required to be permitted under this part, in the areas and seasons designated at § 622.34(a)(3) of this chapter.

(ii) From November through April of each year, no vessel issued, or required to be issued, a permit under this part may fish or deploy any type of fishing gear in the Madison-Swanson closed area or the Steamboat Lumps closed area, as defined in § 635.2.

(iii) From May through October of each year, no vessel issued, or required to be issued, a permit under this part may fish or deploy any type of fishing gear in the Madison-Swanson or the Steamboat Lumps closed areas except for surface trolling. For the purposes of this section, surface trolling is defined as fishing with lines trailing behind a vessel which is in constant motion at speeds in excess of four knots with a visible wake. Such trolling may not involve the use of down riggers, wire lines, planers, or similar devices.

(iv) From January through April of each year, no vessel issued, or required to be issued, a permit under this part may fish or deploy any type of fishing gear in the Edges 40 Fathom Contour closed area, as defined in § 635.2.

(b) *Longline—general restrictions.* (1) All vessels that have pelagic or bottom longline gear onboard and that have been issued, or are required to have, a limited access swordfish, shark, or tuna Longline category permit for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico must possess inside the wheelhouse the document provided by NMFS entitled "Careful Release Protocols for Sea Turtle Release with Minimal Injury," and must also post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS.

(2) Transiting and gear stowage: If a vessel issued a permit under this part is in a closed or gear restricted area described in this section with pelagic or bottom longline gear on board, it is a rebuttable presumption that any fish on board such a vessel were taken with pelagic or bottom longline in the closed or gear restricted area except where such possession is aboard a vessel transiting a closed area with all fishing gear stowed appropriately. Longline gear is stowed appropriately if all gangions and hooks are disconnected from the mainline and are stowed on or below deck, hooks are not baited, and all buoys and weights are disconnected from the mainline and drum (buoys may remain on deck).

(3) When a marine mammal or sea turtle is hooked or entangled by pelagic or bottom longline gear, the operator of the vessel must immediately release the animal, retrieve the pelagic or bottom longline gear, and move at least 1 nm (2 km) from the location of the incident before resuming fishing. Similarly, when a smalltooth sawfish is hooked or entangled by bottom longline gear, the operator of the vessel must immediately release the animal, retrieve the bottom longline gear, and move at least 1 nm (2 km) from the location of the incident before resuming fishing. Reports of marine mammal entanglements must be submitted to NMFS consistent with regulations in § 229.6 of this title.

(4) Vessels that have pelagic or bottom longline gear on board and that have been issued, or are required to have been issued, a permit under this part must have only corrodible hooks on board.

(c) *Pelagic longlines.* (1) If a vessel issued or required to be issued a permit under this part:

(i) Is in a closed area designated under paragraph (c)(2) of this section and has bottom longline gear onboard, the vessel may not, at any time, possess or land any pelagic species listed in table 2 of appendix A to this part in excess of 5 percent, by weight, of the total weight of pelagic and demersal species possessed or landed, that are listed in tables 2 and 3 of appendix A to this part.

(ii) Has pelagic longline gear on board, persons aboard that vessel may not possess, retain, transship, land, sell, or store silky sharks, oceanic whitetip sharks, or scalloped, smooth, or great hammerhead sharks.

(2) Except as noted in paragraph (c)(3) of this section, if pelagic longline gear is on board a vessel issued or required to be issued a permit under this part, persons aboard that vessel may not fish or deploy any type of fishing gear:

(i) In the Northeastern United States closed area from June 1 through June 30 each calendar year;

(ii) In the Charleston Bump closed area from February 1 through April 30 each calendar year;

(iii) In the East Florida Coast closed area at any time;

(iv) In the Desoto Canyon closed area at any time;

(v) In the Cape Hatteras gear restricted area from December 1 through April 30 each year;

(vi) In the Spring Gulf of Mexico gear restricted area from April 1 through May 30 each year;

(vii) In the Northeast Distant gear restricted area at any time, unless persons onboard the vessel complies with the following:

(A) The vessel is limited to possessing onboard and/or using only 18/0 or larger circle hooks with an offset not to exceed 10 degrees. The outer diameter of the circle hook at its widest point must be no smaller than 2.16 inches (55 mm) when measured with the eye on the hook on the vertical axis (y-axis) and perpendicular to the horizontal axis (x-axis), and the distance between the circle hook point and the shank (*i.e.*, the gap) must be no larger than 1.13 inches (28.8 mm). The allowable offset is measured from the barbed end of the hook and is relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side. The only allowable offset circle hooks are those that are offset by the hook manufacturer. If green-stick gear, as defined at § 635.2, is onboard, a vessel may possess up to 20 J-hooks. J-hooks may be used only with green-stick gear, and no more than 10 hooks may be used at one time with each green-stick gear. J-hooks used with green-stick gear may be no smaller than 1.5 inch (38.1 mm) when measured in a straight line over the longest distance from the eye to any other part of the hook; and,

(B) The vessel is limited, at all times, to possessing onboard and/or using only whole Atlantic mackerel and/or squid bait, except that artificial bait may be possessed and used only with green-stick gear, as defined at § 635.2, if green-stick gear is onboard; and,

(C) Vessels must possess, inside the wheelhouse, a document provided by NMFS entitled, "Careful Release Protocols for Sea Turtle Release with Minimal Injury," and must post, inside the wheelhouse, sea turtle handling and release guidelines provided by NMFS; and,

(D) Required sea turtle bycatch mitigation gear, which NMFS has approved under paragraph (c)(5)(iv) of this section, on the initial list of "NMFS-Approved Models For Equipment Needed For The Careful Release of Sea Turtles Caught In Hook And Line Fisheries," must be carried onboard, and must be used in accordance with the handling requirements specified in paragraphs (c)(2)(vii)(E) through (G) of this section; and,

(E) Sea turtle bycatch mitigation gear, specified in paragraph (c)(2)(vii)(D) of this section, must be used to disengage any hooked or entangled sea turtles that cannot be brought on board, and to facilitate access, safe handling, disentanglement, and hook removal or hook cutting from sea turtles that can be brought on board, where feasible. Sea turtles must be handled, and bycatch mitigation gear must be used, in accordance with the careful release protocols and handling/release guidelines specified in paragraph (c)(2)(vii)(C) of this section, and in accordance with the onboard handling and resuscitation requirements specified in § 223.206(d)(1) of this title.

(F) Boated turtles: When practicable, active and comatose sea turtles must be brought on board, with a minimum of injury, using a dipnet approved on the initial list specified in paragraph (c)(2)(vii)(D) of this section. All turtles less than 3 ft. (.91 m) carapace length should be boated, if sea conditions permit. A boated turtle should be placed on a standard automobile tire, or cushioned surface, in an upright orientation to immobilize it and facilitate gear removal. Then, it should be determined if the hook can be removed without causing further injury. All externally embedded hooks should be removed, unless hook removal would result in further injury to the turtle. No attempt to remove a hook should be made if the hook has been swallowed and the insertion point is not visible, or if it is determined that removal would result in further injury. If a hook cannot be removed, as much line as possible should be removed from the turtle using approved monofilament line cutters from the initial list specified in paragraph (c)(2)(vii)(D) of this section, and the hook should be cut as close as possible to the insertion point, using bolt cutters from that list, before releasing the turtle. If a hook can be removed, an effective technique may be to cut off either the barb, or the eye, of the hook using bolt cutters, and then to slide the hook out. When the hook is visible in the front of the mouth, an approved mouth-opener from the initial list specified in paragraph (c)(2)(vii)(D) of this section may facilitate opening the turtle's mouth, and an approved gag from that list may facilitate keeping the mouth open. Short-handled dehookers for ingested hooks, long-nose pliers, or needle-nose pliers from the initial list specified in paragraph (c)(2)(vii)(D) of this section should be used to remove visible hooks that have not been swallowed from the mouth of boated turtles, as appropriate. As much gear as possible must be removed from the turtle without causing further injury prior to its release. Refer to the careful release protocols and handling/release guidelines required in paragraph (c)(2)(vii)(C) of this section, and the handling and resuscitation requirements specified in § 223.206(d)(1) of this title, for additional information.

(G) Non-boated turtles: If a sea turtle is too large, or hooked in a manner that precludes safe boating without causing further damage or injury to the turtle, sea turtle bycatch mitigation gear, specified in paragraph (c)(2)(vii)(D) of this section, must be used to disentangle sea turtles from fishing gear and disengage any hooks, or to clip the line and remove as much line as possible from a hook that cannot be removed, prior to releasing the turtle, in accordance with the protocols specified in paragraph (c)(2)(vii)(C) of this section. Non-boated turtles should be brought close to the boat and provided with time to calm down. Then, it must be determined whether or not the hook can be removed without causing further injury. A front flipper or flippers of the turtle must be secured, if possible, with an approved turtle control device from the list specified in paragraph (c)(2)(vii)(D) of this section. All externally embedded hooks must be removed, unless hook removal would result in further injury to the turtle. No attempt should be made to remove a hook if it has been swallowed, or if it is determined that removal would result in further injury. If the hook cannot be removed and/or if the animal is entangled, as much line as possible must be removed prior to release, using an approved line cutter from the list specified in paragraph (c)(2)(vii)(D) of this section. If the hook can be removed, it must be removed using a long-handled dehooker from the initial list specified in paragraph (c)(2)(vii)(D) of this section. Without causing further injury, as much gear as possible must be removed from the turtle prior to its release. Refer to the careful release protocols and handling/release guidelines required in paragraph (c)(2)(vii)(C) of this section, and the handling and resuscitation requirements specified in § 223.206(d)(1) of this title, for additional information.

(3) *Restricted access to the Cape Hatteras Gear Restricted Area.* A vessel that has been issued, or is required to have been issued, a limited access permit under this part may fish with pelagic longline gear in the Cape Hatteras gear restricted area described in paragraph (c)(2)(v) of this section, provided the vessel has been determined by NMFS to be "qualified," (for the relevant year) using the performance metrics described in § 635.14.

(4) In the Gulf of Mexico, pelagic longline gear may not be fished or deployed from a vessel issued or required to have been issued a limited access permit under this part with live bait affixed to the hooks; and, a person aboard a vessel issued or required to have been issued a limited access permit under this part that has pelagic longline gear on board may not possess live baitfish, maintain live baitfish in any tank or well on board the vessel, or set up or attach an aeration or water circulation device in or to any such tank or well. For the purposes of this section, the Gulf of Mexico includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c).

(5) The operator of a vessel permitted or required to be permitted under this part and that has pelagic longline gear on board must undertake the following sea turtle bycatch mitigation measures:

(i) *Possession and use of required mitigation gear.* Required sea turtle bycatch mitigation gear, which NMFS has approved under paragraph (c)(5)(iv) of this section as meeting the minimum design standards specified in paragraphs (c)(5)(i)(A) through (M) of this section, must be carried onboard, and must be used to disengage any hooked or entangled sea turtles in accordance with the handling requirements specified in paragraph (c)(5)(ii) of this section.

(A) *Long-handled line clipper or cutter.* Line cutters are intended to cut high test monofilament line as close as possible to the hook, and assist in removing line from entangled sea turtles to minimize any remaining gear upon release. NMFS has established minimum design standards for the line cutters, which may be purchased or fabricated from readily available and low-cost materials. The LaForce line cutter and the Arceneaux line clipper are models that meet these minimum design standards. One long-handled line clipper or cutter meeting the minimum design standards, and a set of replacement blades, are required to be onboard. The minimum design standards for line cutters are as follows:

(*1*) A protected and secured cutting blade. The cutting blade(s) must be capable of cutting 2.0–2.1 mm (0.078 in.–0.083 in.) monofilament line (400-lb test) or polypropylene multistrand material, known as braided or tarred mainline, and must be maintained in working order. The cutting blade must be curved, recessed, contained in a holder, or otherwise designed to

facilitate its safe use so that direct contact between the cutting surface and the sea turtle or the user is prevented. The cutting instrument must be securely attached to an extended reach handle and be easily replaceable. One extra set of replacement blades meeting these standards must also be carried on board to replace all cutting surfaces on the line cutter or clipper.

(*2*) An extended reach handle. The line cutter blade(s) must be securely fastened to an extended reach handle or pole with a minimum length equal to, or greater than, 150 percent of the height of the vessel's freeboard, or 6 feet (1.83 m), whichever is greater. It is recommended, but not required, that the handle break down into sections. There is no restriction on the type of material used to construct this handle as long as it is sturdy and facilitates the secure attachment of the cutting blade.

(B) *Long-handled dehooker for ingested hooks.* A long-handled dehooking device is intended to remove ingested hooks from sea turtles that cannot be boated. It should also be used to engage a loose hook when a turtle is entangled but not hooked, and line is being removed. The design must shield the barb of the hook and prevent it from re-engaging during the removal process. One long-handled device, meeting the minimum design standards, is required onboard to remove ingested hooks. The minimum design standards are as follows:

(*1*) Hook removal device. The hook removal device must be constructed of 5/16-inch (7.94 mm) 316 L stainless steel and have a dehooking end no larger than 1–7/8-inches (4.76 cm) outside diameter. The device must securely engage and control the leader while shielding the barb to prevent the hook from re-engaging during removal. It may not have any unprotected terminal points (including blunt ones), as these could cause injury to the esophagus during hook removal. The device must be of a size appropriate to secure the range of hook sizes and styles used in the pelagic longline fishery targeting swordfish and tuna.

(*2*) Extended reach handle. The dehooking end must be securely fastened to an extended reach handle or pole with a minimum length equal to or greater than 150 percent of the height of the vessel's freeboard, or 6 ft. (1.83 m), whichever is greater. It is recommended, but not required, that the handle break down into sections. The handle must be sturdy and strong enough to facilitate the secure attachment of the hook removal device.

(C) *Long-handled dehooker for external hooks.* A long-handled dehooker, meeting the minimum design standards, is required onboard for use on externally-hooked sea turtles that cannot be boated. The long-handled dehooker for ingested hooks described in paragraph (c)(5)(i)(B) of this section would meet this requirement. The minimum design standards are as follows:

(*1*) Construction. A long-handled dehooker must be constructed of 5/16-inch (7.94 mm) 316 L stainless steel rod. A 5-inch (12.7-cm) tube T-handle of 1-inch (2.54 cm) outside diameter is recommended, but not required. The design should be such that a fish hook can be rotated out, without pulling it out at an angle. The dehooking end must be blunt with all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the pelagic longline fishery targeting swordfish and tuna.

(*2*) Extended reach handle. The handle must be a minimum length equal to the height of the vessel's freeboard or 6 ft. (1.83 m), whichever is greater.

(D) *Long-handled device to pull an "inverted V."* This tool is used to pull a "V" in the fishing line when implementing the "inverted V" dehooking technique, as described in the document entitled "Careful Release Protocols for Sea Turtle Release With Minimal Injury," required under paragraph (a)(3) of this section, for disentangling and dehooking entangled sea turtles. One long-handled device to pull an "inverted V", meeting the minimum design standards, is required onboard. If a 6-ft (1.83 m) J-style dehooker is used to comply with paragraph (c)(5)(i)(C) of this section, it will also satisfy this requirement. Minimum design standards are as follows:

(*1*) *Hook end.* This device, such as a standard boat hook or gaff, must be constructed of stainless steel or aluminum. A sharp point, such as on a gaff hook, is to be used only for holding the monofilament fishing line and should never contact the sea turtle.

(*2*) *Extended reach handle.* The handle must have a minimum length equal to the height of the vessel's freeboard, or 6 ft. (1.83 m), whichever is greater. The handle must be sturdy and strong enough to facilitate the secure attachment of the gaff hook.

(E) *Dipnet.* One dipnet, meeting the minimum design standards, is required onboard. Dipnets are to be used to facilitate safe handling of sea turtles by allowing them to be brought onboard for fishing gear removal, without causing further injury to the animal. Turtles must not be brought onboard without the use of a dipnet. The minimum design standards for dipnets are as follows:

(*1*) *Size of dipnet.* The dipnet must have a sturdy net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm) to accommodate turtles below 3 ft. (0.914 m) carapace length. The bag mesh openings may not exceed 3 inches (7.62 cm). There must be no sharp edges or burrs on the hoop, or where the hoop is attached to the handle.

(*2*) *Extended reach handle.* The dipnet hoop must be securely fastened to an extended reach handle or pole with a minimum length equal to, or greater than, 150 percent of the height of the vessel's freeboard, or at least 6 ft (1.83 m), whichever is greater. The handle must made of a rigid material strong enough to facilitate the sturdy attachment of the net hoop and able to support a minimum of 100 lbs (34.1 kg) without breaking or significant bending or distortion. It is recommended, but not required, that the extended reach handle break down into sections.

(F) *Tire.* A minimum of one tire is required onboard for supporting a turtle in an upright orientation while it is onboard, although an assortment of sizes is recommended to accommodate a range of turtle sizes. The required tire must be a standard passenger vehicle tire, and must be free of exposed steel belts.

(G) *Short-handled dehooker for ingested hooks.* One short-handled device, meeting the minimum design standards, is required onboard for removing ingested hooks. This dehooker is designed to remove ingested hooks from boated sea turtles. It can also be used on external hooks or hooks in the front of the mouth. Minimum design standards are as follows:

(*1*) *Hook removal device.* The hook removal device must be constructed of ¼-inch (6.35 mm) 316 L stainless steel, and must allow the hook to be secured and the barb shielded without re-engaging during the removal process. It must be no larger than 15/16 inch (3.33 cm) outside diameter. It may not have any unprotected terminal points (including blunt ones), as this could cause injury to the esophagus during hook removal. A sliding PVC bite block must be used to protect the beak and facilitate hook removal if the turtle bites down on the dehooking device. The bite block should be constructed of a ¾-inch (1.91 cm) inside diameter high impact plastic cylinder (*e.g.*, Schedule 80 PVC) that is 10 inches (25.4 cm) long to allow for 5 inches (12.7 cm) of slide along the shaft. The device must be of a size appropriate to secure the range of hook sizes and styles used in the pelagic

longline fishery targeting swordfish and tuna.

(*2*) *Handle length.* The handle should be approximately 16–24 inches (40.64 cm–60.69 cm) in length, with approximately a 5-inch (12.7 cm) long tube T-handle of approximately 1 inch (2.54 cm) in diameter.

(H) *Short-handled dehooker for external hooks.* One short-handled dehooker for external hooks, meeting the minimum design standards, is required onboard. The short-handled dehooker for ingested hooks required to comply with paragraph (c)(5)(i)(G) of this section will also satisfy this requirement. Minimum design standards are as follows:

(*1*) *Hook removal device.* The dehooker must be constructed of 5/16-inch (7.94 cm) 316 L stainless steel, and the design must be such that a hook can be rotated out without pulling it out at an angle. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the pelagic longline fishery targeting swordfish and tuna.

(*2*) *Handle length.* The handle should be approximately 16–24 inches (40.64 cm–60.69 cm) long with approximately a 5-inch (12.7 cm) long tube T-handle of approximately 1 inch (2.54 cm) in diameter.

(I) *Long-nose or needle-nose pliers.* One pair of long-nose or needle-nose pliers, meeting the minimum design standards, is required on board. Required long-nose or needle-nose pliers can be used to remove deeply embedded hooks from the turtle's flesh that must be twisted during removal. They can also hold PVC splice couplings, when used as mouth openers, in place. To meet the minimum design standards such pliers must generally be approximately 12 inches (30.48 cm) in length, and should be constructed of stainless steel material.

(J) *Bolt cutters.* One pair of bolt cutters, meeting the minimum design standards, is required on board. Required bolt cutters may be used to cut hooks to facilitate their removal. They should be used to cut off the eye or barb of a hook, so that it can safely be pushed through a sea turtle without causing further injury. They should also be used to cut off as much of the hook as possible, when the remainder of the hook cannot be removed. To meet the minimum design standards such bolt cutters must generally be approximately 17 inches (43.18 cm) in total length, with 4-inch (10.16 cm) long blades that are 2¼ inches (5.72 cm) wide, when closed, and with 13-inch (33.02 cm) long handles. Required bolt cutters must be able to cut hard metals, such as stainless or carbon steel hooks, up to ¼-inch (6.35 mm) diameter.

(K) *Monofilament line cutters.* One pair of monofilament line cutters is required on board. Required monofilament line cutters must be used to remove fishing line as close to the eye of the hook as possible, if the hook is swallowed or cannot be removed. To meet the minimum design standards such monofilament line cutters must generally be approximately 7½ inches (19.05 cm) in length. The blades must be 1 in (4.45 cm) in length and 5/8-in (1.59 cm) wide, when closed, and are recommended to be coated with Teflon (a trademark owned by E.I. DuPont de Nemours and Company Corp.).

(L) *Mouth openers/mouth gags.* Required mouth openers and mouth gags are used to open sea turtle mouths, and to keep them open when removing ingested hooks from boated turtles. They must allow access to the hook or line without causing further injury to the turtle. Design standards are included in the item descriptions. At least two of the seven different types of mouth openers/gags described below are required:

(*1*) A block of hard wood. Placed in the corner of the jaw, a block of hard wood may be used to gag open a turtle's mouth. A smooth block of hard wood of a type that does not splinter (*e.g.* maple) with rounded edges should be sanded smooth, if necessary, and soaked in water to soften the wood. The dimensions should be approximately 11 inches (27.94 cm) 1 inch (2.54 cm) 1 inch (2.54 cm). A long-handled, wire shoe brush with a wooden handle, and with the wires removed, is an inexpensive, effective and practical mouth-opening device that meets these requirements.

(*2*) A set of three canine mouth gags. Canine mouth gags are highly recommended to hold a turtle's mouth open, because the gag locks into an open position to allow for hands-free operation after it is in place. A set of canine mouth gags must include one of each of the following sizes: small (5 inches) (12.7 cm), medium (6 inches) (15.24 cm), and large (7 inches) (17.78 cm). They must be constructed of stainless steel. A 1-inch (4.45 cm) piece of vinyl tubing (¾-inch (1.91 cm) outside diameter and 5/8-inch (1.59 cm) inside diameter) must be placed over the ends to protect the turtle's beak.

(*3*) A set of two sturdy dog chew bones. Placed in the corner of a turtle's jaw, canine chew bones are used to gag open a sea turtle's mouth. Required canine chews must be constructed of durable nylon, zylene resin, or thermoplastic polymer, and strong enough to withstand biting without splintering. To accommodate a variety of turtle beak sizes, a set must include one large (5½–8 inches (13.97 cm–20.32 cm) in length), and one small (3½–4½ inches (8.89 cm–11.43 cm) in length) canine chew bones.

(*4*) A set of two rope loops covered with hose. A set of two rope loops covered with a piece of hose can be used as a mouth opener, and to keep a turtle's mouth open during hook and/or line removal. A required set consists of two 3-foot (0.91 m) lengths of poly braid rope (3/8-inch (9.52 mm) diameter suggested), each covered with an 8-inch (20.32 cm) section of ½-inch (1.27 cm) or ¾-inch (1.91 cm) light-duty garden hose, and each tied into a loop. The upper loop of rope covered with hose is secured on the upper beak to give control with one hand, and the second piece of rope covered with hose is secured on the lower beak to give control with the user's foot.

(*5*) A hank of rope. Placed in the corner of a turtle's jaw, a hank of rope can be used to gag open a sea turtle's mouth. A 6-foot (1.83 m) lanyard of approximately 3/16-inch (4.76 mm) braided nylon rope may be folded to create a hank, or looped bundle, of rope. Any size soft-braided nylon rope is allowed, however it must create a hank of approximately 2–4 inches (5.08 cm–10.16 cm) in thickness.

(*6*) A set of four PVC splice couplings. PVC splice couplings can be positioned inside a turtle's mouth to allow access to the back of the mouth for hook and line removal. They are to be held in place with the needle-nose pliers. To ensure proper fit and access, a required set must consist of the following Schedule 40 PVC splice coupling sizes: 1 inch (2.54 cm), 1¼ inch (3.18 cm), 1½ inch (3.81 cm), and 2 inches (5.08 cm).

(*7*) A large avian oral speculum. A large avian oral speculum provides the ability to hold a turtle's mouth open and to control the head with one hand, while removing a hook with the other hand. The avian oral speculum must be 9-inches (22.86 cm) long, and constructed of 3/16-inch (4.76 mm) wire diameter surgical stainless steel (Type 304). It must be covered with 8 inches (20.32 cm) of clear vinyl tubing (5/16-inch (7.9 mm) outside diameter, 3/16-inch (4.76 mm) inside diameter).

(M) *Turtle control devices.* One turtle control device, as described in paragraph (c)(5)(i)(M)(*1*) or (*2*) of this section, and meeting the minimum design standards, is required onboard and must be used to secure a front flipper of the sea turtle so that the animal can be controlled at the side of

the vessel. It is strongly recommended that a pair of turtle control devices be used to secure both front flippers when crew size and conditions allow. Minimum design standards consist of:

(*1*) Turtle tether and extended reach handle. Approximately 15–20 feet of ½-inch hard lay negative buoyance line is used to make an approximately 30-inch loop to slip over the flipper. The line is fed through a ¾-inch fair lead, eyelet, or eyebolt at the working end of a pole and through a ¾-inch eyelet or eyebolt in the midsection. A ½-inch quick release cleat holds the line in place near the end of the pole. A final ¾-inch eyelet or eyebolt should be positioned approximately 7-inches behind the cleat to secure the line, while allowing a safe working distance to avoid injury when releasing the line from the cleat. The line must be securely fastened to an extended reach handle or pole with a minimum length equal to, or greater than, 150 percent of the height of the vessel's freeboard, or a minimum of 6 feet (1.83 m), whichever is greater. There is no restriction on the type of material used to construct this handle, as long as it is sturdy. The handle must include a tag line to attach the tether to the vessel to prevent the turtle from breaking away with the tether still attached.

(*2*) T&G ninja sticks and extended reach handles. Approximately 30–35 feet of ½-inch to ⅝-inch soft lay polypropylene or nylon line or similar is fed through 2 PVC conduit, fiberglass, or similar sturdy poles and knotted using an overhand (recommended) knot at the end of both poles or otherwise secured. There should be approximately 18–24 inches of exposed rope between the poles to be used as a working surface to capture and secure the flipper. Knot the line at the ends of both poles to prevent line slippage if they are not otherwise secured. The remaining line is used to tether the apparatus to the boat unless an additional tag line is used. Two lengths of sunlight resistant ¾-inch schedule 40 PVC electrical conduit, fiberglass, aluminum, or similar material should be used to construct the apparatus with a minimum length equal to, or greater than, 150 percent of the height of the vessel's freeboard, or 6 feet (1.83 m), whichever is greater.

(ii) *Handling and release requirements.* (A) Sea turtle bycatch mitigation gear, as required by paragraphs (c)(5)(i)(A) through (D) of this section, must be used to disengage any hooked or entangled sea turtles that cannot be brought onboard. Sea turtle bycatch mitigation gear, as required by paragraphs (c)(5)(i)(E) through (M) of this section, must be used to facilitate access, safe handling, disentanglement, and hook removal or hook cutting of sea turtles that can be brought onboard, where feasible. Sea turtles must be handled, and bycatch mitigation gear must be used, in accordance with the careful release protocols and handling/release guidelines specified in paragraph (a)(3) of this section, and in accordance with the onboard handling and resuscitation requirements specified in § 223.206(d)(1) of this title.

(B) *Boated turtles.* When practicable, active and comatose sea turtles must be brought on board, with a minimum of injury, using a dipnet as required by paragraph (c)(5)(i)(E) of this section. All turtles less than 3 ft. (.91 m) carapace length should be boated, if sea conditions permit.

(*1*) A boated turtle should be placed on a standard automobile tire, or cushioned surface, in an upright orientation to immobilize it and facilitate gear removal. Then, it should be determined if the hook can be removed without causing further injury.

(*2*) All externally embedded hooks should be removed, unless hook removal would result in further injury to the turtle. No attempt to remove a hook should be made if it has been swallowed and the insertion point is not visible, or if it is determined that removal would result in further injury.

(*3*) If a hook cannot be removed, as much line as possible should be removed from the turtle using monofilament cutters as required by paragraph (c)(5)(i) of this section, and the hook should be cut as close as possible to the insertion point before releasing the turtle, using boltcutters as required by paragraph (c)(5)(i) of this section.

(*4*) If a hook can be removed, an effective technique may be to cut off either the barb, or the eye, of the hook using bolt cutters, and then to slide the hook out. When the hook is visible in the front of the mouth, a mouth-opener, as required by paragraph (c)(5)(i) of this section, may facilitate opening the turtle's mouth and a gag may facilitate keeping the mouth open. Short-handled dehookers for ingested hooks, long-nose pliers, or needle-nose pliers, as required by paragraph (c)(5)(i) of this section, should be used to remove visible hooks from the mouth that have not been swallowed on boated turtles, as appropriate.

(*5*) As much gear as possible must be removed from the turtle without causing further injury prior to its release. Refer to the careful release protocols and handling/release guidelines required in paragraph (a)(3) of this section, and the handling and resuscitation requirements specified in § 223.206(d)(1) of this title, for additional information.

(C) *Non-boated turtles.* If a sea turtle is too large, or hooked in a manner that precludes safe boating without causing further damage or injury to the turtle, sea turtle bycatch mitigation gear required by paragraphs (c)(5)(i)(A) through (D) of this section must be used to disentangle sea turtles from fishing gear and disengage any hooks, or to clip the line and remove as much line as possible from a hook that cannot be removed, prior to releasing the turtle, in accordance with the protocols specified in paragraph (a)(3) of this section.

(*1*) Non-boated turtles should be brought close to the boat and provided with time to calm down. Then, it must be determined whether or not the hook can be removed without causing further injury. A front flipper or flippers of the turtle must be secured with an approved turtle control device from the list specified in paragraph (c)(2)(v)(D) of this section.

(*2*) All externally embedded hooks must be removed, unless hook removal would result in further injury to the turtle. No attempt should be made to remove a hook if it has been swallowed, or if it is determined that removal would result in further injury. If the hook cannot be removed and/or if the animal is entangled, as much line as possible must be removed prior to release, using a line cutter as required by paragraph (c)(5)(i) of this section. If the hook can be removed, it must be removed using a long-handled dehooker as required by paragraph (c)(5)(i) of this section.

(*3*) Without causing further injury, as much gear as possible must be removed from the turtle prior to its release. Refer to the careful release protocols and handling/release guidelines required in paragraph (a)(3) of this section, and the handling and resuscitation requirements specified in § 223.206(d)(1) for additional information.

(iii) *Gear modifications.* The following measures are required of vessel operators to reduce the incidental capture and mortality of sea turtles:

(A) *Gangion length.* The length of any gangion on vessels that have pelagic longline gear on board and that have been issued, or are required to have, a limited access swordfish, shark, or tuna Longline category permit for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico must be at least 10 percent longer than any floatline length if the total length of any gangion plus the total length of any floatline is less than 100 meters.

(B) *Hook size, type, and bait.* Vessels fishing outside of the NED gear restricted area, as defined at § 635.2, that have pelagic longline gear on board, and that have been issued, or are required to have, a limited access swordfish, shark, or Atlantic Tunas Longline category permit for use in the Atlantic Ocean, including the Caribbean Sea and the Gulf of Mexico, are limited, at all times, to possessing on board and/or using only whole finfish and/or squid bait, and the following types and sizes of fishing hooks:

(*1*) 18/0 or larger circle hooks with an offset not to exceed 10°; and/or,

(*2*) 16/0 or larger non-offset circle hooks.

(*i*) For purposes of paragraphs (c)(5)(iii)(B)(*1*) and (*2*) of this section, the outer diameter of an 18/0 circle hook at its widest point must be no smaller than 2.16 inches (55 mm), and the outer diameter of a 16/0 circle hook at its widest point must be no smaller than 1.74 inches (44.3 mm), when measured with the eye of the hook on the vertical axis (y-axis) and perpendicular to the horizontal axis (x-axis). The distance between the hook point and the shank (*i.e.,* the gap) on an 18/0 circle hook must be no larger than 1.13 inches (28.8 mm), and the gap on a 16/0 circle hook must be no larger than 1.01 inches (25.8 mm). The allowable offset is measured from the barbed end of the hook, and is relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side. The only allowable offset circle hooks are those that are offset by the hook manufacturer. In the Gulf of Mexico, as described at § 600.105(c) of this chapter, circle hooks also must be constructed of corrodible round wire stock that is no larger than 3.65 mm in diameter.

(*ii*) [Reserved]

(*3*) If green-stick gear, as defined at § 635.2, is onboard, a vessel may possess up to 20 J-hooks. J-hooks may be used only with green-stick gear, and no more than 10 hooks may be used at one time with each green-stick gear. J-hooks used with green-stick gear may be no smaller than 1.5 inch (38.1 mm) when measured in a straight line over the longest distance from the eye to any other part of the hook. If green-stick gear is onboard, artificial bait may be possessed, but may be used only with green-stick gear.

(iv) *Approval of sea turtle bycatch mitigation gear.* NMFS will file with the Office of the Federal Register for publication an initial list of required sea turtle bycatch mitigation gear that NMFS has approved as meeting the minimum design standards specified under paragraph (c)(5)(i) of this section. Other devices proposed for use as line clippers or cutters or dehookers, as specified under paragraphs (c)(5)(i)(A), (B), (C), (G), (H), and (K) of this section, must be approved as meeting the minimum design standards before being used. NMFS will examine new devices, as they become available, to determine if they meet the minimum design standards, and will file with the Office of the Federal Register for publication notification of any new devices that are approved as meeting the standards.

(d) *Bottom longlines.* (1) If bottom longline gear is onboard a vessel issued a permit under this part, persons aboard that vessel may not fish or deploy any type of fishing gear in the following areas:

(i) The mid-Atlantic shark closed area from January 1 through July 31 each calendar year;

(ii) The areas designated at § 622.33(a)(1) through (3) of this chapter, year-round; and

(iii) The areas described in paragraphs (d)(1)(iii)(A) through (H) of this section, year-round.

(A) *Snowy Grouper Wreck.* Bounded by rhumb lines connecting, in order, the following points: 33°25′ N. lat., 77°04.75′ W. long.; 33°34.75′ N. lat., 76°51.3′ W. long.; 33°25.5′ N. lat., 76°46.5′ W. long.; 33°15.75′ N. lat., 77°00.0′ W. long.; 33°25′ N. lat., 77°04.75′ W. long.

(B) *Northern South Carolina.* Bounded on the north by 32°53.5′ N. lat.; on the south by 32°48.5′ N. lat.; on the east by 78°04.75′ W. long.; and on the west by 78°16.75′ W. long.

(C) *Edisto.* Bounded on the north by 32°24′ N. lat.; on the south by 32°18.5′ N. lat.; on the east by 78°54.0′ W. long.; and on the west by 79°06.0′ W. long.

(D) *Charleston Deep Artificial Reef.* Bounded by rhumb lines connecting, in order, the following points: 32°04′ N. lat., 79°12′ W. long.; 32°08.5′ N. lat., 79°07.5′ W. long.; 32°06′ N. lat., 79°05′ W. long.; 32°01.5′ N. lat., 79°09.3′ W. long.; 32°04′ N. lat., 79°12′ W. long.

(E) *Georgia.* Bounded by rhumb lines connecting, in order, the following points: 31°43′ N. lat., 79°31′ W. long.; 31°43′ N. lat., 79°21′ W. long.; 31°34′ N. lat., 79°29′ W. long.; 31°34′ N. lat., 79°39′ W. long; 31°43′ N. lat., 79°31′ W. long.

(F) *North Florida.* Bounded on the north by 30°29′ N. lat.; on the south by 30°19′ N. lat.; on the east by 80°02′ W. long.; and on the west by 80°14′ W. long.

(G) *St. Lucie Hump.* Bounded on the north by 27°08′ N. lat.; on the south by 27°04′ N. lat.; on the east by 79°58′ W. long.; and on the west by 80°00′ W. long.

(H) *East Hump.* Bounded by rhumb lines connecting, in order, the following points: 24°36.5′ N. lat., 80°45.5′ W. long.; 24°32′ N. lat., 80°36′ W. long; 24°27.5′ N. lat., 80°38.5′ W. long; 24°32.5′ N. lat., 80°48′ W. long.; 24°36.5′ N. lat., 80°45.5′ W. long.

(2) The operator of a vessel required to be permitted under this part and that has bottom longline gear on board must undertake the following bycatch mitigation measures to release sea turtles, prohibited sharks, or smalltooth sawfish, as appropriate.

(i) *Possession and use of required mitigation gear.* The equipment listed in paragraph (c)(5)(i) of this section must be carried on board and must be used to handle, release, and disentangle hooked or entangled sea turtles, prohibited sharks, or smalltooth sawfish in accordance with requirements specified in paragraph (d)(2)(ii) of this section.

(ii) *Handling and release requirements.* Sea turtle bycatch mitigation gear, as required by paragraph (d)(2)(i) of this section, must be used to disengage any hooked or entangled sea turtle as stated in paragraph (c)(5)(ii) of this section. This mitigation gear should also be employed to disengage any hooked or entangled species of prohibited sharks as listed under heading D of Table 1 of appendix A of this part, any hooked or entangled species of sharks that exceed the retention limits as specified in § 635.24(a), and any hooked or entangled smalltooth sawfish. In addition, if a smalltooth sawfish is caught, the fish should be kept in the water while maintaining water flow over the gills and the fish should be examined for research tags. All smalltooth sawfish must be released in a manner that will ensure maximum probability of survival, but without removing the fish from the water or any research tags from the fish.

(3) If a vessel issued or required to be issued a permit under this part is in a closed area designated under paragraph (d)(1) of this section and has pelagic longline gear onboard, the vessel may not, at any time, possess or land any demersal species listed in Table 3 of Appendix A to this part in excess of 5 percent, by weight, of the total weight of pelagic and demersal species possessed or landed, that are listed in Tables 2 and 3 of Appendix A to this part.

(e) *Purse seine*—(1) *Mesh size.* A purse seine used in directed fishing for bluefin tuna must have a mesh size equal to or smaller than 4.5 inches (11.4 cm) in the main body (stretched when

wet) and must have at least 24-count thread throughout the net.

(2) *Inspection of purse seine vessels.* Persons that own or operate an Atlantic Tunas purse seine vessel must have their fishing gear inspected for mesh size by an enforcement agent of NMFS prior to commencing fishing for the season in any fishery that may result in the harvest of Atlantic tunas. Such persons must request such inspection at least 24 hours before commencement of the first fishing trip of the season. If NMFS does not inspect the vessel within 24 hours of such notification, the inspection requirement is waived. In addition, at least 24 hours before commencement of offloading any bluefin tuna after a fishing trip, such persons must request an inspection of the vessel and catch by notifying NMFS. If, after notification by the vessel, NMFS does not arrange to inspect the vessel and catch at offloading, the inspection requirement is waived.

(f) *Rod and reel.* Persons who have been issued or are required to be issued a permit under this part and who are participating in a "tournament," as defined in § 635.2, that bestows points, prizes, or awards for Atlantic billfish must deploy only non-offset circle hooks when using natural bait or natural bait/artificial lure combinations, and may not deploy a J-hook or an offset circle hook in combination with natural bait or a natural bait/artificial lure combination.

(g) *Gillnet.* (1) Persons fishing with gillnet gear must comply with the provisions implementing the Atlantic Large Whale Take Reduction Plan, the Bottlenose Dolphin Take Reduction Plan, the Harbor Porpoise Take Reduction Plan, and any other relevant Take Reduction Plan set forth in §§ 229.32 through 229.35 of this title. If a listed whale is taken, the vessel operator must cease fishing operations immediately and contact NOAA Fisheries as required under part 229 of this title.

(2) While fishing with a gillnet for or in possession of any of the large coastal, small coastal, and pelagic sharks listed in section A, B, and/or C of table 1 of appendix A of this part, the gillnet must remain attached to at least one vessel at one end, except during net checks.

(3) Vessel operators fishing with gillnet for, or in possession of, any of the large coastal, small coastal, and pelagic sharks listed in sections A, B, and/or C of table 1 of appendix A of this part are required to conduct net checks every 0.5 to 2 hours to look for and remove any sea turtles, marine mammals, or smalltooth sawfish. Smalltooth sawfish should not be removed from the water while being removed from the net.

(h) *Buoy gear.* Vessels utilizing buoy gear may not possess or deploy more than 35 floatation devices, and may not deploy more than 35 individual buoy gears per vessel. Buoy gear must be constructed and deployed so that the hooks and/or gangions are attached to the vertical portion of the mainline. Floatation devices may be attached to one but not both ends of the mainline, and no hooks or gangions may be attached to any floatation device or horizontal portion of the mainline. If more than one floatation device is attached to a buoy gear, no hook or gangion may be attached to the mainline between them. Individual buoy gears may not be linked, clipped, or connected together in any way. Buoy gears must be released and retrieved by hand. All deployed buoy gear must have some type of monitoring equipment affixed to it including, but not limited to, radar reflectors, beeper devices, lights, or reflective tape. If only reflective tape is affixed, the vessel deploying the buoy gear must possess on board an operable spotlight capable of illuminating deployed floatation devices. If a gear monitoring device is positively buoyant, and rigged to be attached to a fishing gear, it is included in the 35 floatation device vessel limit and must be marked appropriately.

(i) *Speargun fishing gear.* Speargun fishing gear may only be utilized when recreational fishing for Atlantic BAYS tunas and only from vessels issued either a valid HMS Angling or valid HMS Charter/Headboat permit. Persons fishing for Atlantic BAYS tunas using speargun gear, as specified in § 635.19, must be physically in the water when the speargun is fired or discharged, and may freedive, use SCUBA, or other underwater breathing devices. Only free-swimming BAYS tunas, not those restricted by fishing lines or other means, may be taken by speargun fishing gear. "Powerheads," as defined at § 600.10 of this chapter, or any other explosive devices, may not be used to harvest or fish for BAYS tunas with speargun fishing gear.

(j) *Green-stick gear.* Green-stick gear may only be utilized when fishing from vessels issued a valid Atlantic Tunas General, Swordfish General Commercial, HMS Charter/Headboat, or Atlantic Tunas Longline category permit. The gear must be attached to the vessel, actively trolled with the mainline at or above the water's surface, and may not be deployed with more than 10 hooks or gangions attached.

■ 13. In § 635.23, the section heading and paragraphs (d), (e) and (f) are revised to read as follows:

§ 635.23 Retention limits for bluefin tuna.

* * * * *

(d) *Harpoon category.* Persons aboard a vessel permitted in the Atlantic Tunas Harpoon category may retain, possess, or land an unlimited number of giant bluefin tuna per day. An incidental catch of two large medium bluefin tuna per vessel per day may be retained, possessed, or landed, unless the retention limits is increased by NMFS through an inseason adjustment to three, or a maximum of four, large medium bluefin tuna per vessel per day, based upon the criteria under § 635.27(a)(8). NMFS will implement an adjustment via publication in the **Federal Register**. If adjusted upwards to three or four large medium bluefin tuna per vessel per day, NMFS may subsequently decrease the retention limit down to the default level of two, based on the criteria under § 635.27(a)(8).

(e) *Purse Seine category.* Persons aboard a vessel permitted in the Atlantic Tunas Purse Seine category may retain giant bluefin tuna (81 inches and larger), and smaller bluefin, as restricted by paragraphs (e)(1) and (2) of this section, up to the amount of individual quota allocated under § 635.27(a)(4)(ii). Purse seine vessel owners who, through landing and/or leasing, have no remaining bluefin tuna quota allocation may not use their permitted vessels in any fishery in which Atlantic bluefin tuna might be caught, regardless of whether bluefin tuna are retained, unless such vessel owners lease additional allocation through the Individual Bluefin Quota Allocation Leasing Program, under § 635.15(c). Persons aboard a vessel permitted in the Atlantic Tunas Purse Seine category,

(1) May retain, possess, land, or sell large medium bluefin in amounts not exceeding 15 percent, by weight, of the total amount of giant bluefin landed during that fishing year.

(2) May retain, possess, or land bluefin smaller than the large medium size class that are taken incidentally when fishing for skipjack tuna in an amount not exceeding 1 percent, by weight, of the skipjack tuna and yellowfin tuna landed on that trip. Landings of bluefin smaller than the large medium size class may not be sold and are counted against the Purse Seine category bluefin quota allocated to that vessel.

(3) May fish for yellowfin, bigeye, albacore, or skipjack tuna at any time; however, landings of bluefin tuna taken

incidental to fisheries targeting other Atlantic tunas or in any fishery in which bluefin tuna might be caught will be deducted from the individual vessel's quota.

(f) *Longline category.* Persons aboard a vessel permitted in the Atlantic Tunas Longline category are subject to the bluefin tuna retention restrictions in paragraphs (f)(1) and (2) of this section.

(1) A vessel fishing with pelagic longline gear may retain, possess, land and sell large medium and giant bluefin tuna taken incidentally when fishing for other species if in compliance with all the IBQ requirements of § 635.15, including the requirement that a vessel may not declare into or depart on a fishing trip with pelagic longline onboard unless it has the required minimum bluefin tuna IBQ allocation required for the region where fishing activity will occur.

(2) A vessel with pelagic longline gear onboard must retain all dead bluefin tuna that are 73 inches or greater CFL.

* * * * *

■ 14. In § 635.27:

■ a. Paragraphs (a) introductory text, (a)(1) through (3), and (a)(4)(i) through (iv) are revised;

■ b. Paragraph (a)(4)(v) is added;

■ c. Paragraphs (a)(5) and (6), (a)(7) heading, and (a)(7)(i) are revised;

■ d. Paragraphs (a)(8)(x) through (xiv) are added;

■ e. Paragraphs (a)(9), and (a)(10)(i) through (iii) are revised; and

■ f. Paragraph (e) is added.

The revisions and additions read as follows:

§ 635.27 Quotas.

(a) *Bluefin tuna.* Consistent with ICCAT recommendations, and with paragraph (a)(10)(iv) of this section, NMFS may subtract the most recent, complete, and available estimate of dead discards from the annual U.S. bluefin tuna quota, and make the remainder available to be retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction. The remaining baseline annual U.S. bluefin tuna quota will be allocated among the General, Angling, Harpoon, Purse Seine, Longline, Trap, and Reserve categories, as described in this section. The baseline annual U.S. bluefin tuna quota is 923.7 mt ww, not including an additional annual 25 mt ww allocation provided in paragraph (a)(3) of this section. The bluefin quota for the quota categories is calculated through the following process. First, 68 mt ww is subtracted from the baseline annual U.S. bluefin tuna quota and allocated to the Longline category quota. Second, the remaining quota is divided among the categories according to the following percentages: General—47.1 percent (403 mt ww); Angling—19.7 percent (168.6 mt ww), which includes the school bluefin tuna held in reserve as described under paragraph (a)(7)(ii) of this section; Harpoon—3.9 percent (33.4 mt ww); Purse Seine—18.6 percent (159.1 mt ww); Longline—8.1 percent (69.3 mt ww) plus the 68 mt ww allocation (137.3 mt ww total not including 25 mt ww allocation from paragraph (a)(3)); Trap—0.1 percent (0.9 mt ww); and Reserve—2.5 percent (21.4, mt ww). NMFS may make inseason and annual adjustments to quotas as specified in paragraphs (a)(9) and (10) of this section, including quota adjustments as a result of the annual reallocation of Purse Seine quota described under paragraph (a)(4)(v) of this section. Bluefin tuna quotas are specified in whole weight.

(1) *General category quota.* (i) Catches from vessels for which General category Atlantic Tunas permits have been issued, catches from vessels issued an Atlantic Tunas Longline permit fishing under the provisions of § 635.21(c)(3)(vi)(B), and certain catches from vessels for which an HMS Charter/Headboat permit has been issued are counted against the General category quota in accordance with § 635.23(c)(3). Pursuant to paragraph (a) of this section, the amount of large medium and giant bluefin tuna that may be caught, retained, possessed, landed, or sold under the General category quota is 403 mt ww, and is apportioned as follows, unless modified as described under paragraph (a)(1)(ii) of this section:

(A) January 1 through the effective date of a closure notice filed by NMFS announcing that the January subquota is reached, or projected to be reached under § 635.28(a)(1), or until March 31, whichever comes first—5.3 percent (21.4 mt ww);

(B) June 1 through August 31—50 percent (201.5 mt ww);

(C) September 1 through September 30—26.5 percent (106.8 mt ww);

(D) October 1 through November 30—13 percent (52.4 mt ww); and

(E) December 1 through December 31—5.2 percent (21 mt ww).

(ii) NMFS may adjust each period's apportionment based on overharvest or underharvest in the prior period, and may transfer subquota from one time period to another time period, earlier in the year, through inseason action or annual specifications. For example, subquota could be transferred from the December 1 through December 31 time period to the January time period; or from the October 1 through November 30 time period to the September time period. This inseason adjustment may occur prior to the start of that year. In other words, although subject to the inseason criteria under paragraph (a)(8) of this section, the adjustment could occur prior to the start of the fishing year. For example, an inseason action transferring the 2016 December 1 through December 31 time period subquota to the 2016 January 1 time period subquota could be filed in 2015.

(iii) When the General category fishery has been closed in any quota period specified under paragraph (a)(1)(i) of this section, NMFS will publish a closure action as specified in § 635.28. The subsequent time-period subquota will automatically open in accordance with the dates specified under paragraph (a)(1)(i) of this section.

(2) *Angling category quota.* In accordance with the framework procedures of the Consolidated HMS FMP, prior to each fishing year, or as early as feasible, NMFS will establish the Angling category daily retention limits. In accordance with paragraph (a) of this section, the total amount of bluefin tuna that may be caught, retained, possessed, and landed by anglers aboard vessels for which an HMS Angling permit or an HMS Charter/Headboat permit has been issued is 168.6 mt ww. No more than 2.3 percent (3.9 mt ww) of the annual Angling category quota may be large medium or giant bluefin tuna. In addition, over each 2-consecutive-year period (starting in 2011, inclusive), no more than 10 percent of the annual U.S. bluefin tuna quota, inclusive of the allocation specified in paragraph (a)(3) of this section, may be school bluefin tuna (*i.e.*, 94.9 mt ww). The Angling category quota includes the amount of school bluefin tuna held in reserve under paragraph (a)(7)(ii) of this section. The size class subquotas for bluefin tuna are further subdivided as follows:

(i) After adjustment for the school bluefin tuna quota held in reserve (under paragraph (a)(7)(ii) of this section), 52.8 percent (40.8 mt ww) of the school bluefin tuna Angling category quota may be caught, retained, possessed, or landed south of 39°18′ N. lat. The remaining school bluefin tuna Angling category quota (36.5 mt ww) may be caught, retained, possessed or landed north of 39°18′ N. lat.

(ii) An amount equal to 52.8 percent (36.9 mt ww) of the large school/small medium bluefin tuna Angling category quota may be caught, retained, possessed, or landed south of 39°18′ N. lat. The remaining large school/small medium bluefin tuna Angling category quota (32.9 mt ww) may be caught,

retained, possessed or landed north of 39°18′ N. lat.

(iii) One third (1.3 mt ww) of the large medium and giant bluefin tuna Angling category quota may be caught retained, possessed, or landed, in each of the three following geographic areas: North of 39°18′ N. lat.; south of 39°18′ N. lat., and outside of the Gulf of Mexico; and in the Gulf of Mexico. For the purposes of this section, the Gulf of Mexico region includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c).

(3) *Longline category quota.* Pursuant to paragraph (a) of this section, the total amount of large medium and giant bluefin tuna that may be caught, discarded dead, or retained, possessed, or landed by vessels that possess Atlantic Tunas Longline category permits is 137.3 mt ww. In addition, 25 mt ww shall be allocated for incidental catch by pelagic longline vessels fishing in the Northeast Distant gear restricted area, and subject to the restrictions under § 635.15(b)(8).

(4) * * *

(i) *Baseline Purse Seine quota.* Pursuant to paragraph (a) of this section, the baseline amount of large medium and giant bluefin tuna that may be caught, retained, possessed, or landed by vessels that possess Atlantic Tunas Purse Seine category permits is 159.1 mt ww, unless adjusted as a result of inseason and/or annual adjustments to quotas as specified in paragraphs (a)(9) and (10) of this section; or adjusted (prior to allocation to individual participants) based on the previous year's catch as described under paragraph (a)(4)(v) of this section. Annually, NMFS will make a determination when the Purse Seine fishery will start, based on variations in seasonal distribution, abundance or migration patterns of bluefin tuna, cumulative and projected landings in other commercial fishing categories, the potential for gear conflicts on the fishing grounds, or market impacts due to oversupply. NMFS will start the bluefin tuna purse seine season between June 1 and August 15, by filing an action with the Office of the Federal Register, and notifying the public. The Purse Seine category fishery closes on December 31 of each year.

(ii) *Allocation of bluefin quota to Purse Seine category participants.* Annually, NMFS will make equal allocations of the baseline Purse Seine category quota described under paragraph (a)(4)(i) of this section to individual Purse Seine participants (*i.e.*, 38.1 mt each), then make further determinations regarding the allocations per paragraph (a)(4)(v) of this section. Allocations of individual bluefin quota to individual Purse Seine participants may only be transferred through leasing in accordance with procedures and requirements at § 635.15(c) and other requirements under this paragraph (a)(4).

(iii) *Duration.* Bluefin tuna quota allocation issued under this section is valid for the relevant fishing year unless it is revoked, suspended, or modified or unless the Atlantic Tunas Purse Seine category quota is closed per § 635.28(a).

(iv) *Unused bluefin allocation.* Any quota allocation that is unused at the end of the fishing year may not be carried forward by a Purse Seine participant to the following year, but would remain associated with the Purse Seine category as a whole, and subject to the quota regulations under § 635.27, including annual quota adjustments.

(v) *Annual reallocation of Atlantic Tunas Purse Seine category quota.* (A) By the end of each year, NMFS will determine the amount of quota available to each Atlantic Tunas Purse Seine category participant for the upcoming fishing year, based on his/her bluefin catch (landings and dead discards). Specifically, NMFS will allocate each Atlantic Tunas Purse Seine category participant either 100 percent, 75 percent, 50 percent, or 25 percent of his/her individual baseline quota allocation, described in paragraph (a)(4)(ii) of this section, according to the following criteria: if the Purse Seine participant's catch in year one ranges from 0 to 20 percent of his/her individual baseline quota allocation, as described under paragraph (a)(4)(ii) of this section, the Purse Seine category participant would be allocated 25 percent of his/her individual baseline quota allocation in year two, and 75 percent of his/her individual allocation would be reallocated to the Reserve category for that year. Similarly, if the Purse Seine participant's catch in year one is from greater than 20 percent up to 45 percent of his/her individual baseline quota allocation, that Purse Seine category participant would be allocated 50 percent of his/her individual baseline quota allocation in year two, and 50 percent of his/her individual allocation would be reallocated to the Reserve category for that year. If the Purse Seine participant's catch in year one is from greater than 45 percent up to 70 percent of his/her individual baseline quota allocation, that Purse Seine category participant would be allocated 75 percent of his/her individual baseline quota allocation in year two, and 25 percent of his/her individual allocation would be transferred to the Reserve category for that year. If the Purse Seine participant's catch in year one is greater than 70 percent of his/her individual baseline quota allocation, that Purse Seine category participant would be allocated 100 percent of his/her individual baseline quota allocation in year two, and no quota would be transferred to the Reserve category for that year. These criteria would apply following the same pattern in years two and beyond.

(B) Purse Seine category participants may only lease to eligible IBQ participants allocated quota available to them that year, consistent with the purse seine allocation availability provisions in this section. For example, if a Purse Seine category participant was allocated 50 percent of his/her baseline quota, he/she would be able to catch and/or lease that allocation to an eligible IBQ participant. The individual participant's remaining baseline quota would not be available to lease but would be transferred to the Reserve category. Allocation of less than 100% of a participant's baseline quota (*i.e.*, 25 percent, 50 percent, or 75 percent) does not preclude the participant from leasing additional quota, as needed, consistent with § 635.15(c).

(C) NMFS will inform each Atlantic Tunas Purse Seine category participant annually of its determination regarding the amount of individual quota allocated for the subsequent year through the electronic IBQ system established under § 635.15 and in writing via a permit holder letter, when NMFS has the complete catch data for the Purse Seine fishery.

(5) *Harpoon category quota.* The total amount of large medium and giant bluefin tuna that may be caught, retained, possessed, landed, or sold by vessels that possess Harpoon category Atlantic Tunas permits is 33.4 mt ww. The Harpoon category fishery commences on June 1 of each year, and closes on November 15 of each year.

(6) *Trap category quota.* The total amount of large medium and giant bluefin tuna that may be caught, retained, possessed, or landed by vessels that possess Trap category Atlantic Tunas permits is 0.9 mt ww.

(7) *Reserve category quota.* (i) The total amount of bluefin tuna that is held in reserve for inseason or annual adjustments and research using quota or subquotas is 21.4 mt ww, which may be augmented by allowable underharvest from the previous year, or annual reallocation of Purse Seine category quota as described under paragraph (a)(4)(v) of this section. Consistent with paragraphs (a)(8), (a)(9), and (a)(10) of this section, NMFS may allocate any portion of the Reserve category quota for

inseason or annual adjustments to any fishing category quota.

* * * * *

(8) * * *

(x) Optimize fishing opportunity.

(xi) Account for dead discards.

(xii) Facilitate quota accounting.

(xiii) Support other fishing monitoring programs through quota allocations and/or generation of revenue.

(xiv) Support research through quota allocations and/or generation of revenue.

(9) *Inseason adjustments.* To be effective for all, or a part of a fishing year, NMFS may transfer quotas specified under this section, among fishing categories or, as appropriate, subcategories, based on the criteria in paragraph (a)(8) of this section.

(10) *Annual adjustments.* (i) Adjustments to category quotas specified under paragraphs (a) (1) through (7) of this section may be made in accordance with the restrictions of this paragraph and ICCAT recommendations. Based on landing, catch statistics, other available information, and in consideration of the criteria in paragraph (a)(8) of this section, if NMFS determines that a bluefin quota for any category or, as appropriate, subcategory has been exceeded (overharvest), NMFS may subtract all or a portion of the overharvest from that quota category or subcategory for the following fishing year. If NMFS determines that a bluefin quota for any category or, as appropriate, subcategory has not been reached (underharvest), NMFS may add all or a portion of the underharvest to, that quota category or subcategory, and/or the Reserve category for the following fishing year. The underharvest that is carried forward may not exceed 100 percent of each category's baseline allocation specified in paragraph (a) of this section, and the total of the adjusted fishing category quotas and the Reserve category quota are consistent with ICCAT recommendations. Although quota may be carried over for the Longline or Purse Seine categories as a whole (at the category level), individual fishery participants that have been allocated individual quota may not carry over such quota from one year to the next, as specified under § 635.15(b)(6) and (7) for the pelagic longline fishery, and under paragraph (a)(4)(iv) of this section for the purse seine fishery.

(ii) NMFS may allocate any quota remaining in the Reserve category at the end of a fishing year to any fishing category, provided such allocation is consistent with the determination criteria specified in paragraph (a)(8) of this section.

(iii) Regardless of the estimated landings in any year, NMFS may adjust the annual school bluefin quota to ensure that the average take of school bluefin over each ICCAT-recommended balancing period does not exceed 10 percent by weight of the total annual U.S. bluefin quota, inclusive of the allocation specified in paragraph (a)(3) of this section (NED), for that period, consistent with ICCAT recommendations.

* * * * *

(e) *Northern albacore tuna*—(1) *Annual quota.* Consistent with ICCAT recommendations and domestic management objectives, the total baseline annual fishery quota is 527 mt ww. The total quota, after any adjustments made per paragraph (e)(2) of this section, is the fishing year's total amount of northern albacore tuna that may be landed by persons and vessels subject to U.S. jurisdiction.

(2) *Annual adjustments.* Consistent with ICCAT recommendations and domestic management objectives, and based on landings statistics and other information as appropriate, if for a particular year the total landings are above or below the annual quota for that year, the difference between the annual quota and the landings will be subtracted from, or added to, the following year's quota, respectively, or subtracted or added through a delayed, or multi-year adjustment. Carryover adjustments shall be limited to 25 percent of the baseline quota allocation for that year. NMFS will file with the Office of the Federal Register for publication any adjustment or apportionment made under this paragraph (e)(2).

■ 15. In § 635.28, paragraph (a) is revised; and paragraphs (b)(6), (c)(3), and (d) are added to read as follows:

§ 635.28 Fishery closures.

(a) *Bluefin tuna.* (1) When a bluefin tuna quota specified in § 635.27(a), is reached, or is projected to be reached, NMFS will file a closure action with the Office of the Federal Register for publication. On and after the effective date and time of such action, for the remainder of the fishing year or for a specified period as indicated in the notice, fishing for, retaining, possessing, or landing bluefin tuna under that quota is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

(2) If NMFS determines that variations in seasonal distribution, abundance, or migration patterns of bluefin, or the catch rate in one area, precludes participants in another area from a reasonable opportunity to harvest any allocated domestic category quota, as stated in § 635.27(a), NMFS may close all or part of the fishery under that category. NMFS may reopen the fishery at a later date if NMFS determines that reasonable fishing opportunities are available, *e.g.*, bluefin have migrated into the area or weather is conducive for fishing. In determining the need for any such interim closure or area closure, NMFS will also take into consideration the criteria specified in § 635.27(a)(8).

(3) When the Atlantic Tunas Longline category quota is reached, projected to be reached, or exceeded, or when there is high uncertainty regarding the estimated or documented levels of bluefin tuna catch, NMFS will file a closure action with the Office of the Federal Register for publication. On and after the effective date and time of such action, for the remainder of the fishing year or for a specified period as indicated in the closure action, vessels that have been issued or are required to have a limited access permit under § 635.4 and that have pelagic longline gear onboard are prohibited from leaving port, regardless of the amount of bluefin tuna quota allocation remaining to each vessel or the amount of fishery quota remaining for other species. In addition to providing notice in the **Federal Register**, NMFS will also notify vessels of any closures and their timing via VMS and may use other electronic methods, such as email. Vessels would be required to return to port prior to the closure date/time. When considering whether to close or reopen the Longline category quota, NMFS may consider the following factors:

(i) Total estimated bluefin tuna catch (landings and dead discards) in relation to the quota;

(ii) The estimated amount by which the bluefin tuna quota might be exceeded;

(iii) The usefulness of data relevant to monitoring the quota;

(iv) The uncertainty in the documented or estimated dead discards or landings of bluefin tuna;

(v) The amount of bluefin tuna landings or dead discards within a short time;

(vi) The effects of continued fishing on bluefin tuna rebuilding and overfishing;

(vii) The provision of reasonable opportunity for pelagic longline vessels to pursue the target species;

(viii) The variations in seasonal distribution, abundance or migration patterns of bluefin tuna; and

(viii) Other relevant factors.

(b) * * *

(6) If the Atlantic Tunas Longline category quota is closed as specified in paragraph (a)(4) of this section, vessels that have pelagic longline gear on board cannot possess or land sharks.

* * * * *

(c) * * *

(3) *Bluefin tuna Longline category closure.* If the Atlantic Tunas Longline category quota is closed as specified in paragraph (a)(4) of this section, vessels that have pelagic longline gear on board cannot possess or land any North Atlantic swordfish or bluefin tuna.

(d) *Northern albacore tuna*—When the annual fishery quota specified in § 635.27(e) is reached, or is projected to be reached, NMFS will file a closure action with the Office of the Federal Register for publication. When the fishery for northern albacore tuna is closed, northern albacore tuna may not be retained. If the Atlantic Tunas Longline category quota is closed as specified in paragraph (a)(4) of this section, vessels that have pelagic longline gear on board cannot possess or land any northern albacore tuna.

■ 16. In § 635.31, paragraphs (a)(1) and (2), (c)(1) and (4), and (d)(1) and (2) are revised to read as follows:

§ 635.31 Restrictions on sale and purchase.

(a) * * *

(1) A person that owns or operates a vessel from which an Atlantic tuna is landed or offloaded may sell such Atlantic tuna only if that vessel has a valid HMS Charter/Headboat permit; a valid General, Harpoon, Longline, Purse Seine, or Trap category permit for Atlantic tunas; or a valid HMS Commercial Caribbean Small Boat permit issued under this part and the appropriate category has not been closed, as specified at § 635.28(a). However, no person may sell a bluefin tuna smaller than the large medium size class. Also, no large medium or giant bluefin tuna taken by a person aboard a vessel with an Atlantic HMS Charter/Headboat permit fishing in the Gulf of Mexico at any time, or fishing outside the Gulf of Mexico when the fishery under the General category has been closed, may be sold (see § 635.23(c)). A person may sell Atlantic bluefin tuna only to a dealer that has a valid permit for purchasing Atlantic bluefin tuna issued under this part. A person may not sell or purchase Atlantic tunas harvested with speargun fishing gear.

(2) Dealers may purchase Atlantic tunas only from a vessel that has a valid commercial permit for Atlantic tunas issued under this part in the appropriate category and the appropriate category has not been closed, as specified at § 635.28(a).

(i) Dealers may purchase Atlantic bluefin tuna only from a vessel that has a valid Federal commercial permit for Atlantic tunas issued under this part in the appropriate category. Vessel owners and operators of vessels that have been issued an Atlantic Tunas Longline category permit can sell bluefin tuna and dealers can purchase bluefin tuna from such vessels only if the Longline category is open, per § 635.28(a) and if:

(A) The vessel has met the minimum quota allocation and accounting requirements at § 635.15(b)(4) and (5) for vessels departing on a trip with pelagic longline gear aboard, and

(B) The dealer and vessel have met the IBQ program participant requirements at § 635.15(a)(2).

(ii) Dealers may first receive BAYS tunas only if they have submitted reports to NMFS according to reporting requirements at § 635.5(b)(1)(ii), and only from a vessel that has a valid Federal commercial permit for Atlantic tunas issued under this part in the appropriate category. Vessel owners and operators of vessels that have been issued an Atlantic Tunas Longline category permit can sell BAYS tunas and dealers can purchase BAYS tunas from such vessels only if the Longline category is open per § 635.28(a). Individuals issued a valid HMS Commercial Caribbean Small Boat permit, and operating in the U.S. Caribbean as defined at § 622.2 of this chapter, may sell their trip limits of BAYS tunas, codified at § 635.24(c), to dealers and non-dealers. Persons may only sell albacore tuna and dealers may only first receive albacore tuna if the northern albacore tuna fishery has not been closed as specified at § 635.28 (d).

* * * * *

(c) * * *

(1) Persons that own or operate a vessel that possesses a shark from the management unit may sell such shark only if the vessel has a valid commercial shark permit issued under this part. Persons may possess and sell a shark only to a federally-permitted dealer and only when the fishery for that species, management group, and/or region has not been closed, as specified in § 635.28(b). Persons that own or operate a vessel that has pelagic longline gear onboard can only possess and sell a shark if the Atlantic Tunas Longline category has not been closed, as specified in § 635.28(a).

* * * * *

(4) Only dealers who have a valid a Federal Atlantic shark dealer permit and who have submitted reports to NMFS according to reporting requirements at § 635.5(b)(1)(ii) may first receive a shark from an owner or operator of a vessel that has, or is required to have, a valid federal Atlantic commercial shark permit issued under this part. Atlantic shark dealers may purchase, trade for, barter for, or receive a shark from an owner or operator of a vessel who does not have a federal Atlantic commercial shark permit if that vessel fishes exclusively in state waters. Atlantic shark dealers may first receive a sandbar shark only from an owner or operator of a vessel who has a valid shark research permit and who had a NMFS-approved observer on board the vessel for the trip in which the sandbar shark was collected. Atlantic shark dealers may first receive a shark from an owner or operator of a fishing vessel who has a valid commercial shark permit issued under this part only when the fishery for that species, management group, and/or region has not been closed, as specified in § 635.28(b). Atlantic shark dealers may first receive a shark from a vessel that has pelagic longline gear onboard only if the Atlantic Tunas Longline category has not been closed, as specified in § 635.28(a).

* * * * *

(d) * * *

(1) Persons that own or operate a vessel on which a swordfish in or from the Atlantic Ocean is possessed may sell such swordfish only if the vessel has a valid commercial permit for swordfish issued under this part. Persons may offload such swordfish only to a dealer who has a valid permit for swordfish issued under this part; except that individuals issued a valid HMS Commercial Caribbean Small Boat permit, and operating in the U.S. Caribbean as defined at § 622.2 of this chapter, may sell swordfish, as specified at § 635.24(b)(3), to non-dealers. Persons that own or operate a vessel that has pelagic longline gear onboard can only possess and sell a swordfish if the Atlantic Tunas Longline category has not been closed, as specified in § 635.28(a)(4).

(2) Atlantic swordfish dealers may first receive a swordfish harvested from the Atlantic Ocean only from an owner or operator of a fishing vessel that has a valid commercial permit for swordfish issued under this part, and only if the dealer has submitted reports to NMFS according to reporting requirements of § 635.5(b)(1)(ii). Atlantic swordfish dealers may first receive a swordfish from a vessel that has pelagic longline gear onboard only if the Atlantic Tunas

Longline category has not been closed, as specified in § 635.28(a)(4).

■ 17. In § 635.34, paragraphs (a), (b) and (d) are revised to read as follows:

§ 635.34 Adjustment of management measures.

(a) NMFS may adjust the IBQ shares or resultant allocations for bluefin tuna, as specified in § 635.15; catch limits for bluefin tuna, as specified in § 635.23; the quotas for bluefin tuna, shark, swordfish, and northern albacore tuna, as specified in § 635.27; the regional retention limits for Swordfish General Commercial permit holders, as specified at § 635.24; the marlin landing limit, as specified in § 635.27(d); and the minimum sizes for Atlantic blue marlin, white marlin, and roundscale spearfish, as specified in § 635.20.

(b) In accordance with the framework procedures in the 2006 Consolidated HMS FMP, NMFS may establish or modify for species or species groups of Atlantic HMS the following management measures: Maximum sustainable yield or optimum yield based on the latest stock assessment or updates in the SAFE report; domestic quotas; recreational and commercial retention limits, including target catch requirements; size limits; fishing years or fishing seasons; shark fishing regions or regional quotas; species in the management unit and the specification of the species groups to which they belong; species in the prohibited shark species group; classification system within shark species groups; permitting and reporting requirements; workshop requirements; the IBQ shares or resultant allocations for bluefin tuna; administration of the IBQ Program (including but not limited to requirements pertaining to leasing of IBQ allocations, regional or minimum IBQ share requirements, IBQ share caps (individual or by category), permanent sale of shares, NED IBQ rules, etc.); time/area restrictions; allocations among user groups; gear prohibitions, modifications, or use restriction; effort restrictions; observer coverage requirements; EM requirements; essential fish habitat; and actions to implement ICCAT recommendations, as appropriate.

* * * * *

(d) When considering a framework adjustment to add, change, or modify time/area closures and/or gear restricted areas, NMFS will consider, consistent with the FMP, the Magnuson-Stevens Act and other applicable law, but is not limited to the following criteria: Any Endangered Species Act related issues, concerns, or requirements, including applicable BiOps; bycatch rates of protected species, prohibited HMS, or non-target species both within the specified or potential closure area(s) and throughout the fishery; bycatch rates and post-release mortality rates of bycatch species associated with different gear types; new or updated landings, bycatch, and fishing effort data; evidence or research indicating that changes to fishing gear and/or fishing practices can significantly reduce bycatch; social and economic impacts; and the practicability of implementing new or modified closures compared to other bycatch reduction options. If the species is an ICCAT managed species, NMFS will also consider the overall effect of the U.S.'s catch on that species before implementing time/area closures, gear restricted areas, or access to closed areas.

■ 18. In § 635.69, paragraph (a) introductory text and paragraphs (a)(1) and (4) are revised; and paragraph (e)(4) is added to read as follows:

§ 635.69 Vessel monitoring systems.

(a) *Applicability.* To facilitate enforcement of time/area and fishery closures, enhance reporting, and support the IBQ Program (§ 635.15), an owner or operator of a commercial vessel permitted, or required to be permitted, to fish for Atlantic HMS under § 635.4 and that fishes with pelagic or bottom longline, gillnet, or purse seine gear, is required to install a NMFS-approved enhanced mobile transmitting unit (E–MTU) vessel monitoring system (VMS) on board the vessel and operate the VMS unit under the circumstances listed in paragraphs (a)(1) through (a)(4) of this section. For purposes of this section, a NMFS-approved E–MTU VMS is one that has been approved by NMFS as satisfying its type approval listing for E–MTU VMS units. Those requirements are published in the **Federal Register** and may be updated periodically.

(1) Whenever the vessel has pelagic longline or purse seine gear on board;

* * * * *

(4) A vessel is considered to have pelagic or bottom longline gear on board, for the purposes of this section, when the gear components as specified at § 635.2 are on board. A vessel is considered to have gillnet gear on board, for the purposes of this section, when gillnet, as defined in § 600.10 of this chapter, is on board a vessel that has been issued a shark LAP. A vessel is considered to have purse seine gear on board, for the purposes of this section, when the gear as defined at § 600.10 is onboard a vessel that has been issued an Atlantic Tunas Purse Seine category permit.

* * * * *

(e) * * *

(4) Bluefin tuna and fishing effort reporting requirements for vessels fishing either with pelagic longline gear or purse seine gear—(i) *Pelagic longline gear.* The vessel owner or operator of a vessel that has pelagic longline gear on board must report to NMFS using the attached VMS terminal, or using an alternative method specified by NMFS as follows: For each set, as instructed by NMFS, the date and area of the set, the number of hooks and the length of all bluefin retained (actual), and the length of all bluefin tuna discarded dead or alive (approximate), must be reported within 12 hours of the completion each pelagic longline haul-back.

(ii) *Purse Seine gear.* The vessel owner or operator of a vessel that has purse seine gear on board must report to NMFS using the attached VMS terminal, or using an alternative method specified by NMFS as follows: For each purse seine set, as instructed by NMFS, the date and area of the set, and the length of all bluefin retained (actual), and the length of all bluefin tuna discarded dead or alive (approximate), must be reported within 12 hours of the completion of the retrieval of each set.

* * * * *

■ 19. In § 635.71:

■ a. Paragraphs (a)(14), (a)(19), (a)(23), (a)(31), (a)(33), (a)(34), and (a)(40) are revised;

■ b. Paragraphs (a)(57) through (60) are added;

■ c. Paragraphs (b)(5), (b)(7), (b)(8), (b)(13), (b)(17), (b)(23), (b)(36), and (b)(38) are revised;

■ d. Paragraphs (b)(41) through (59) are added; and

■ e. Paragraphs (c)(1) and (7), (d)(12) and (13), and (e)(8), (e)(11), (e)(16) and (e)(18) are revised.

The revisions and additions read as follows:

§ 635.71 Prohibitions

* * * * *

(a) * * *

(14) Fail to install, activate, repair, or replace a NMFS-approved E–MTU vessel monitoring system prior to leaving port with pelagic longline gear, bottom longline gear, gillnet gear, or purse seine gear on board the vessel as specified in § 635.69.

* * * * *

(19) Utilize secondary gears as specified in § 635.19(a) to capture, or attempt to capture, any undersized or free swimming Atlantic HMS, or fail to

release a captured Atlantic HMS in the manner specified in § 635.21(a).

* * * * *

(23) Fail to comply with the restrictions on use of pelagic longline, bottom longline, gillnet, buoy gear, speargun gear, or green-stick gear as specified in § 635.21.

* * * * *

(31) Deploy or fish with any fishing gear from a vessel with a pelagic longline on board in any closed or gear restricted areas during the time period specified at § 635.21(c), except under the conditions listed at § 635.21 (c)(3).

* * * * *

(33) Deploy or fish with any fishing gear from a vessel with pelagic or bottom longline gear on board without carrying the required sea turtle bycatch mitigation gear, as specified at § 635.21(c)(5)(i) for pelagic longline gear and § 635.21(d)(2) for bottom longline gear. This equipment must be utilized in accordance with § 635.21(c)(5)(ii) and (d)(2) for pelagic and bottom longline gear, respectively.

(34) Fail to disengage any hooked or entangled sea turtle with the least harm possible to the sea turtle as specified at § 635.21 (c)(5) or (d)(2).

* * * * *

(40) Deploy or fish with any fishing gear, from a vessel with bottom longline gear on board, without carrying a dipnet, line clipper, and dehooking device as specified at § 635.21(d)(2).

* * * * *

(57) Fail to appropriately stow longline gear when transiting a closed or gear restricted area, as specified in § 635.21(b)(2).

(58) Fish with pelagic longline gear in the Cape Hatteras Gear Restricted area if not determined by NMFS to be "qualified" under § 635.21(c)(3).

(59) Fish for, retain, possess, or land any HMS from a vessel with a pelagic longline on board when the Atlantic Tunas Longline category fishery is closed, as specified in § 635.28(a)(3), (b)(6), (c)(3), and (d).

(60) Buy, trade, or barter for any HMS from a vessel with pelagic longline gear is on board when the Atlantic Tunas Longline category fishery is closed, as specified in § 635.31(a)(2), (c), and (d).

(b) * * *

(5) Fail to report a large medium or giant bluefin tuna that is not sold, as specified in § 635.5(a)(3), or fail to report a bluefin tuna that is sold, as specified in § 635.5(a)(4).

* * * * *

(7) Fish for, catch, retain, or possess a bluefin tuna with gear not authorized for the category permit issued to the vessel or to have such gear on board when in possession of a bluefin tuna, as specified in § 635.19(b).

(8) Fail to request an inspection of a purse seine vessel, as specified in § 635.21(e)(2).

* * * * *

(13) As a vessel with an Atlantic Tunas General category permit, fail to immediately cease fishing and immediately return to port after catching the applicable limit of large medium or giant bluefin tuna on a commercial fishing day, as specified in § 635.23(a)(3).

* * * * *

(17) As a vessel with an Atlantic Tunas Purse Seine category permit, catch, possess, retain, or land bluefin in excess of its allocation of the Purse Seine category quota as specified in § 635.23(e), or fish for bluefin under that allocation prior to the commencement date of the directed bluefin purse seine fishery as specified in § 635.27(a)(4).

* * * * *

(23) Fish for, catch, possess, or retain a bluefin tuna, except as specified under § 635.23(f), or if taken incidental to recreational fishing for other species and retained in accordance with § 635.23(b) and (c).

* * * * *

(36) Possess J-hooks onboard a vessel that has pelagic longline gear onboard, and that has been issued, or is required to have, a limited access swordfish, shark, or Atlantic Tunas Longline category permit for use in the Atlantic Ocean, including the Caribbean Sea and the Gulf of Mexico, except when green-stick gear is onboard, as specified at § 635.21(c)(2)(vii)(A) and (c)(5)(iii)(C)(*3*).

* * * * *

(38) Possess more than 20 J-hooks onboard a vessel that has been issued, or is required to have, a limited access swordfish, shark, or tuna Longline category permit for use in the Atlantic Ocean, including the Caribbean Sea and the Gulf of Mexico, when possessing onboard both pelagic longline gear and green-stick gear as defined at § 635.2.

* * * * *

(41) Fail to report bluefin catch by pelagic longline or purse seine gear, through VMS as specified at § 635.69(e)(4).

(42) Fail to report all dead discards or landings of bluefin through the NMFS electronic catch reporting system within 24 hours of landing or the end of the trip as specified at § 635.5(a)(4).

(43) Fish for, retain, possess, or land albacore tuna when the fishery is closed, as specified in § 635.28(d).

(44) Buy, purchase, trade, or barter for albacore tuna when the fishery is closed, as specified in § 635.31(a)(2)(ii).

(45) Fail to comply with landing report requirements, as specified under § 635.5(b)(2)(i)(A).

(46) Deploy or fish with any fishing gear from a vessel with a pelagic longline on board that does not have an approved and working EM system as specified in § 635.9; tamper with, or fail to install, operate or maintain one or more components of the EM system; obstruct the view of the camera(s); or fail to handle bluefin tuna in a manner that allows the camera to record the fish; as specified in § 635.9.

(47) Depart on a fishing trip or deploy or fish with any fishing gear from a vessel with a pelagic longline on board without a minimum amount of IBQ allocation available for that vessel, as specified in § 635.15(b)(3), as applicable.

(48) Depart on a fishing trip or deploy or fish with any fishing gear from a vessel with a pelagic longline on board without accounting for bluefin caught on a previous trip as specified in § 635.15(b)(4)(ii).

(49) Lease bluefin quota allocation to or from the owner of a vessel not issued a valid Atlantic Tunas Longline permit or not an Atlantic Tunas Purse Seine participant as specified under § 635.15(c)(1).

(50) Fish in the Gulf of Mexico with pelagic longline gear on board if the vessel has only designated Atlantic IBQ allocation, as specified under § 635.15(b)(2).

(51) Depart on a fishing trip or deploy or fish with any fishing gear from a vessel with a pelagic longline on board in the Gulf of Mexico, without a minimum amount of designated GOM IBQ allocation available for that vessel, as specified in § 635.15(b)(3).

(52) If leasing IBQ allocation, fail to provide all required information on the application, as specified under § 635.15(c)(2).

(53) Lease IBQ allocation in an amount that exceeds the amount of IBQ allocation associated with the lessor, as specified under § 635.15(c)(2).

(54) Sell quota share, as specified under § 635.15(d).

(55) Fail to provide bluefin tuna landings and dead discard information as specified at § 635.15(b)(4)(iii).

(56) Fish with or have pelagic longline gear on board if any trip level quota debt associated with the vessel from a preceding trip has not been settled, as specified at § 635.15(b)(5)(i).

(57) Lease IBQ allocation during the period from 6 p.m. December 31 to 2

p.m. January 1 (Eastern Time) as specified at § 635.15(c)(3)(iv).

(58) Lease IBQ allocation if the conditions of paragraph § 635.15(c)(2) are not met.

(59) Fish with or have pelagic longline gear on board if any annual level quota debt associated with the vessel from a preceding year has not been settled, as specified at § 635.15(b)(5)(ii).

(c) * * *

(1) As specified in § 635.19(c), retain a billfish harvested by gear other than rod and reel, or retain a billfish on board a vessel unless that vessel has been issued an Atlantic HMS Angling or Charter/Headboat permit or has been issued an Atlantic Tunas General category permit and is participating in a tournament in compliance with § 635.4(c).

* * * * *

(7) Deploy a J-hook or an offset circle hook in combination with natural bait or a natural bait/artificial lure combination when participating in a tournament for, or including, Atlantic billfish, as specified in § 635.21(f).

* * * * *

(d) * * *

(12) Fish for Atlantic sharks with unauthorized gear or possess Atlantic sharks on board a vessel with unauthorized gear on board as specified in § 635.19(d).

(13) Fish for Atlantic sharks with a gillnet or possess Atlantic sharks on board a vessel with a gillnet on board, except as specified in § 635.21(g).

* * * * *

(e) * * *

(8) Fish for North Atlantic swordfish from, possess North Atlantic swordfish on board, or land North Atlantic swordfish from a vessel using or having on board gear other than pelagic longline, green-stick gear, or handgear, except as specified at § 635.19(e).

* * * * *

(11) As the owner of a vessel permitted, or required to be permitted, in the swordfish directed, swordfish handgear limited access permit category, or issued a valid HMS Commercial Caribbean Small Boat permit and utilizing buoy gear, to possess or deploy more than 35 individual floatation devices, to deploy more than 35 individual buoy gears per vessel, or to deploy buoy gear without affixed monitoring equipment, as specified at § 635.21(h).

* * * * *

(16) Possess any HMS, other than Atlantic swordfish, harvested with buoy gear as specified at § 635.19 unless issued a valid HMS Commercial Caribbean Small Boat permit and operating within the U.S. Caribbean as defined at § 622.2 of this chapter.

* * * * *

(18) As the owner of a vessel permitted, or required to be permitted, in the Swordfish General Commercial permit category, possess North Atlantic swordfish taken from its management unit by any gear other than rod and reel, handline, bandit gear, green-stick, or harpoon gear, as specified in § 635.19(e).

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Part III

Office of Management and Budget

Statistical Policy Directive No. 1: Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units; Notice

OFFICE OF MANAGEMENT AND BUDGET

Statistical Policy Directive No. 1: Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of final decision.

SUMMARY: Under the *Budget and Accounting Procedures Act* of 1950 (31 U.S.C. 1104 (d)) and the *Paperwork Reduction Act* of 1995 (44 U.S.C. 3504 (e)), the Office of Management and Budget (OMB) is issuing Statistical Policy Directive No. 1, *Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units.* This Directive affirms the fundamental responsibilities of Federal statistical agencies and recognized statistical units in the design, collection, processing, editing, compilation, storage, analysis, release, and dissemination of statistical information. On May 21, 2014, OMB published a Notice of solicitation of comments on a draft of this Directive in the Federal Register (79 FR 29308, May 21, 2014). Eight respondents sent comments in regard to the notice. Careful consideration was given to all comments. The disposition of the comments as well as the final Directive are presented in the **SUPPLEMENTARY INFORMATION** section below.

In its role as coordinator of the Federal statistical system under the *Paperwork Reduction Act,* OMB, among other responsibilities, is required to ensure the efficiency and effectiveness of the system as well as the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes. OMB is also charged with developing and overseeing the implementation of Government-wide principles, policies, standards, and guidelines concerning the development, presentation, and dissemination of statistical information. The *Information Quality Act* (Pub. L. 106–554, Division C, title V, Sec. 515, Dec. 21, 2000; 114 Stat. 2763A–153 to 2763A–154) requires OMB, as well as all other Federal agencies, to maximize the objectivity, utility, and integrity of information, including statistical information, provided to the public.

To operate efficiently and effectively, the Nation relies on the flow of objective, credible statistics to support the decisions of individuals, households, governments, businesses, and other organizations. Any loss of trust in the accuracy, objectivity, or integrity of the Federal statistical system and its products causes uncertainty about the validity of measures the Nation uses to monitor and assess its performance, progress, and needs by undermining the public's confidence in the information released by the Government. Although the Federal Government has taken a number of legislative and executive actions, informed by national and international practice, to maintain public confidence in Federal statistics, the actual implementation in the form of standards and practices can involve a wide range of managerial and technical challenges.

Therefore, to support the quality and objectivity of Federal statistical information, OMB is issuing a new Statistical Policy Directive to affirm the long-acknowledged, fundamental responsibilities of Federal statistical agencies and recognized statistical units in the design, collection, processing, editing, compilation, storage, analysis, release, and dissemination of statistical information. Additional discussion of the Directive, together with the Directive itself, may be found in the **SUPPLEMENTARY INFORMATION** section below.

DATES: *Effective Date:* The effective date of this Directive is December 2, 2014.

ADDRESSES: Please send any questions about this Directive to: Katherine K. Wallman, Chief Statistician, Office of Management and Budget, 10201 New Executive Office Building, Washington, DC 20503, *telephone number:* (202) 395–3093, *FAX number:* (202) 395–7245. You may also send questions via Email to *DirectiveNo1@omb.eop.gov.* Because of delays in the receipt of regular mail related to security screening, use of electronic communications is encouraged.

Electronic Availability: This document is available on the Internet on the OMB Web site at *www.omb.gov/inforeg/ssp/DirectiveNo1Final.*

FOR FURTHER INFORMATION CONTACT: Jennifer Park, 10201 New Executive Office Building, Washington, DC 20503, Email address: *jpark@omb.eop.gov* with subject Directive No. 1: Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units, *telephone number:* (202) 395–9046, *FAX number:* (202) 395–7245.

SUPPLEMENTARY INFORMATION: The Nation relies on the flow of credible statistics to support the decisions of individuals, households, governments, businesses, and other organizations. Any loss of trust in the relevance, accuracy, objectivity, or integrity of the Federal statistical system and its products can foster uncertainty about the validity of measures our Nation uses to monitor and assess performance, progress, and needs.

Definitions: The terms, *Federal statistical agencies and recognized statistical units, statistical activities, statistical purpose, relevance, objectivity, accuracy,* and *confidentiality,* as used in this section, are defined within the text of the Statistical Policy Directive in the subsequent section.

Scope: The Federal statistical system comprises over 100 programs that engage in statistical activities. However, this Directive specifically applies to the following *Federal statistical agencies and recognized statistical units:*

—Bureau of Economic Analysis (Department of Commerce);
—Bureau of Justice Statistics (Department of Justice);
—Bureau of Labor Statistics (Department of Labor);
—Bureau of Transportation Statistics (Department of Transportation);
—Census Bureau (Department of Commerce);
—Economic Research Service (Department of Agriculture);
—Energy Information Administration (Department of Energy);
—National Agricultural Statistics Service (Department of Agriculture);
—National Center for Education Statistics (Department of Education);
—National Center for Health Statistics (Department of Health and Human Services);
—National Center for Science and Engineering Statistics (National Science Foundation);
—Office of Research, Evaluation, and Statistics (Social Security Administration);
—Statistics of Income Division (Department of the Treasury);
—Microeconomic Surveys Unit, Federal Reserve Board;
—Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration (Department of Health and Human Services);
—National Animal Health Monitoring System, Animal and Plant Health Inspection Service (Department of Agriculture); and
—Federal statistical agencies and statistical units newly recognized by OMB after the issuance of this Directive as agencies or organizational units of the Executive Branch whose principal missions are statistical activities.

Background: The Federal Government has taken a number of legislative and

executive actions, informed by national and international professional practice, to maintain public confidence in the relevance, accuracy, objectivity, and integrity of Federal statistics. Documents that provide or inform a common foundation for core statistical agency functions are outlined in the paragraphs below. Taken as a whole, these complementary documents contribute to an integrative framework guiding the production of Federal statistics, encompassing design, collection, processing, editing, compilation, storage, analysis, release, and dissemination.

The *Paperwork Reduction Act* (PRA) makes OMB responsible, among other requirements, for coordination of the Federal statistical system. The purpose of this coordination is to ensure the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes.

Title V of the E-Government Act of 2002, the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA) (Pub. L. 107–347, title V; 116 Stat. 2962, Dec. 17, 2002) establishes uniform data protection requirements for Federal statistical collections, sets minimum standards for safeguarding confidential statistical information, and ensures the confidentiality of information collected exclusively for statistical purposes. OMB's *Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002* (CIPSEA Implementation Guidance) (72 FR 33362, June 15, 2007) supports public trust by standardizing the pledge Federal statistical agencies and recognized statistical units use when collecting information for statistical purposes from the public. It provides a uniform approach to protecting confidential information any time an agency pledges to keep confidential the information it collects exclusively for statistical purposes. This guidance also requires the application of sound scientific and statistical disclosure limitation techniques to minimize the risk of re-identification of survey respondents in statistical data products. Additional legislation requires maintaining the confidentiality of responses to agency-specific data collections.[1]

The *Privacy Act of 1974* and the *Privacy Act Implementation: Guidelines and Responsibilities* (5 U.S.C. 552a; 40 FR 28948, Jul. 9, 1975) establish a series of requirements to ensure that personal information about individuals collected by Federal agencies is limited to that which is legally authorized and necessary and is maintained in a manner that precludes unwarranted intrusions upon individual privacy. *Section 208 of the E-Government Act of 2002* (Pub. L. 107–347, 44 U.S.C. Ch 36, Dec. 17, 2002) requires agencies to conduct privacy impact assessments when they develop, procure, or use information technology to collect, maintain, or disseminate personally identifiable information. OMB's *Circular A–130* (revised Nov. 28, 2000) establishes policy for the management of Federal information resources, including certain privacy reporting and publication requirements. These statutes and policies promote public trust by establishing a common code of fair information practices that applies to all Federal agencies that collect information about individuals.

Pursuant to the *Information Quality Act*, OMB has established guidelines that require each Federal agency to institute procedures to ensure the objectivity, utility, and integrity of information, including statistical information, provided to the public. OMB *Government-wide Information Quality Guidelines* (67 FR 8453, Jan. 3, 2002) define objectivity, utility, and integrity in a manner consistent with use of these terms in the PRA. Each Federal agency, through the adoption or adaptation of these guidelines, maintains its commitment to use the best available science and statistical methods; subjects information, models, and analytic results to independent peer review by qualified experts, when appropriate; disseminates its data and analytic products with a high degree of transparency about the data and methods to facilitate their reproducibility by qualified third parties; and ensures that the presentation of information is comprehensive, informative, and understandable.

OMB's *Standards and Guidelines for Statistical Surveys* (71 FR 55522, Sept. 22, 2006) describes specific practices that support the quality of design, collection, processing, production, analysis, review, and dissemination of information from statistical surveys.

OMB's *Statistical Policy Directive No. 3, Compilation, Release, and Evaluation of Principal Federal Economic Indicators* (50 FR 38932, Sept. 25, 1985) establishes requirements for Federal agencies regarding the compilation, release, and evaluation of economic activity measures that are relied upon by the public as Principal Federal Economic Indicators.

OMB's *Statistical Policy Directive No. 4, Release and Dissemination of Statistical Products Produced by Federal Statistical Agencies* (73 FR 12622, Mar. 7, 2008) establishes requirements for Federal statistical agencies and recognized statistical units on the release and dissemination of statistical products. Agencies are required to follow specific guidance to ensure that their release of information is equitable across all users, policy neutral, transparent and understandable to the public, and timely to the needs of data users.

The *President's Memorandum on the Preservation and Promotion of Scientific Integrity* (March 9, 2009) articulates six principles central to the preservation and promotion of scientific integrity. A central theme of the President's memorandum is that the public must be able to trust the science and scientific processes informing public policy decisions. The *Memorandum for the Heads of Executive Departments and Agencies* (December 17, 2010) issued by the Director of the Office of Science and Technology Policy provides guidance for implementing the President's policy on scientific integrity. That memorandum directs Executive departments and agencies to develop policies that ensure a culture of scientific integrity, strengthen the actual and perceived credibility of Government research, facilitate the free flow of scientific and technologic information, and establish principles for conveying scientific and technologic information to the public.

Principles and Practices for a Federal Statistical Agency (*Principles and Practices*), issued by the National Research Council of the National Academy of Sciences, has guided managerial and technical decisions made by national and international statistical agencies for decades. Four principles are identified.[2]

1. Relevance to Public Policy Issues. A Federal statistical agency must be in a position to provide objective, accurate,

[1] Examples of such laws are the *Food Security Act of 1985* Sec. 1770, 7 U.S.C. 2276, as amended in Pub. L. 105–113 (Nov. 21, 1997) (National Agricultural Statistics Service), *13 U.S.C. 9* (Census Bureau), *42 U.S.C. 1873* (National Center for Science and Engineering Statistics), and the *Education Sciences Reform Act of 2002* (Pub. L. 107–279, Nov. 5, 2002) (National Center for Education Statistics).

[2] *Principles and Practices for a Federal Statistical Agency*, National Research Council of the National Academies, Fifth edition, Committee on National Statistics, Constance F. Citro and Miron L. Straf, Editors, Division of Behavioral and Social Sciences and Education. Washington, DC The National Academies Press (2013).

and timely information that is relevant to issues of public policy.

2. Credibility Among Data Users. A Federal statistical agency must have credibility with those who use its data and information.

3. Trust Among Data Providers. A Federal statistical agency must have the trust of those whose information it obtains.

4. Independence from Political and Other Undue External Influence. A Federal statistical agency must be independent from political and other undue external influence in developing, producing, and disseminating statistics.

The United States is not alone in identifying statistical principles. The *European Statistics Code of Practice* guides European statistical systems by affirming the European Union member nations' commitment to ensuring high quality in the statistical production process, protecting the confidentiality of the information they collect, and disseminating statistics in an objective, professional, and transparent manner.[3] Fifteen principles are identified.

1. Professional independence of statistical authorities from other policy, regulatory or administrative departments and bodies, as well as from private sector operators, ensures the credibility of European Statistics.

2. Statistical authorities have a clear legal mandate to collect information for European statistical purposes. Administrations, enterprises and households, and the public at large may be compelled by law to allow access to or deliver data for European statistical purposes at the request of statistical authorities.

3. The resources available to statistical authorities are sufficient to meet European Statistics requirements.

4. Statistical authorities are committed to quality. They systematically and regularly identify strengths and weaknesses to continuously improve process and product quality.

5. The privacy of data providers (households, enterprises, administrations and other respondents), the confidentiality of the information they provide, and uses only for statistical purposes are absolutely guaranteed.

6. Statistical authorities develop, produce and disseminate European Statistics respecting scientific independence and in an objective, professional and transparent manner in which all users are treated equitably.

7. Sound methodology underpins quality statistics. This requires adequate tools, procedures and expertise.

8. Appropriate statistical procedures, implemented from data collection to data validation, underpin quality statistics.

9. The reporting burden is proportionate to the needs of the users and is not excessive for respondents. The statistical authorities monitor the response burden and set targets for its reduction over time.

10. Resources are used effectively.

11. European Statistics meet the needs of users.

12. European Statistics accurately and reliably portray reality.

13. European Statistics are released in a timely and punctual manner.

14. European Statistics are consistent internally, over time and comparable between regions and countries; it is possible to combine and make joint use of related data from different sources.

15. European Statistics are presented in a clear and understandable form, released in a suitable and convenient manner, available and accessible on an impartial basis with supporting metadata and guidance.

The *United Nations Fundamental Principles of Official Statistics* affirm ten fundamental principles that promote and build the "essential trust of the public in the integrity of official statistical systems and confidence in statistics."[4] These principles ensure that national statistical systems in United Nations member states produce high quality and reliable data by adhering to certain professional and scientific standards.

1. Official statistics provide an indispensable element in the information system of a democratic society, serving the Government, the economy and the public with data about the economic, demographic, social and environmental situation. To this end, official statistics that meet the test of practical utility are to be compiled and made available on an impartial basis by official statistical agencies to honour citizens' entitlement to public information.

2. To retain trust in official statistics, the statistical agencies need to decide according to strictly professional considerations, including scientific principles and professional ethics, on the methods and procedures for the collection, processing, storage and presentation of statistical data.

3. To facilitate a correct interpretation of the data, the statistical agencies are to present information according to scientific standards on the sources, methods, and procedures of the statistics.

4. The statistical agencies are entitled to comment on erroneous interpretation and misuse of statistics.

5. Data for statistical purposes may be drawn from all types of sources, be they statistical surveys or administrative records. Statistical agencies are to choose the source with regard to quality, timeliness, costs and the burden on respondents.

6. Individual data collected by statistical agencies for statistical compilation, whether they refer to natural or legal persons, are to be strictly confidential and used exclusively for statistical purposes.

7. The laws, regulations, and measures under which the statistical systems operate are to be made public.

8. Coordination among statistical agencies within countries is essential to achieve consistency and efficiency in the statistical system.

9. The use by statistical agencies in each country of international concepts, classifications and methods promotes the consistency and efficiency of statistical systems at all official levels.

10. Bilateral and multilateral cooperation in statistics contributes to the improvement of systems of official statistics in all countries.

Although these principles and policies provide a common foundation for core statistical agency functions, their actual implementation in the form of standards and practices can involve a wide range of managerial and technical challenges. Therefore, to support agency decision-making in a manner that fosters statistical quality, OMB developed this Statistical Policy Directive. This Directive provides a unified articulation of Federal statistical agency responsibilities. The framework requires Federal statistical agencies and recognized statistical units to adopt policies, best practices, and appropriate procedures to implement these responsibilities. Such a framework also recognizes and identifies the essential role of Federal Departments in supporting Federal statistical agencies and recognized statistical units as they implement these responsibilities.

Disposition Of Comments Received: On May 21, 2014, OMB published in the **Federal Register** (79 FR 29308, May 21, 2014) a notice seeking comments on a draft of this Directive. Eight respondents

[3] *European Statistics Code of Practice for the National and Community Statistical Authorities,* European Statistical System, Adopted September 28, 2011.

[4] *Fundamental Principles of Official Statistics,* United Nations Statistical Commission, adopted April 11–15, 1994. Revised preamble adopted February 26–March 1, 2013; adopted July 24, 2013 by the United Nations Economic and Social Council; adopted January 29, 2014 by the United Nations General Assembly (with sponsorship by the United States).

sent comments in regard to the notice. All commenters encouraged OMB to issue the Directive, some as drafted and others with suggested changes designed to strengthen various provisions of the Directive. After careful consideration, the draft Directive was modified in response to comment and is issued as final by this notice. A general discussion of the comments as they pertain to sections of the Directive and their disposition follows.

Authority and Purpose. One comment suggested adding implementation guidance to the Directive. We agree that implementation guidance may be valuable. However, this Directive is intended to provide a concise, stable, and unified articulation of Federal statistical agency responsibilities. As such, the framework is intended to be a foundation document, with minimal changes anticipated over time. In contrast, we anticipate that the policies, practices, and procedures needed to implement these responsibilities will necessarily change over time, as particular data needs, forms of data, and information technology applications evolve. Therefore, the Directive is limited to articulating core principles; implementation guidance, if developed, would be issued separately.

A comment called for a provision requiring Federal Departments to report within a specified period of time how their current structures and procedures support Federal statistical agencies and recognized statistical units in achieving their responsibilities. We agree this information would be beneficial, but see reporting requirements as an activity related to the implementation of the Directive, rather than as a function of the Directive itself. The Directive is intended to be brief and including reporting requirements is not well-suited for its scope as a foundation document. Therefore, we may request this or similar information upon issuance of the final Directive.

Background. One comment requested clarification as to the definition of "participating countries" referenced in the Directive's discussion of the United Nations' *Fundamental Principles of Official Statistics.* We have modified the text to clarify that our reference pertains to United Nations' member states, of which there are currently 193.

Responsibility 1. Four comments suggested that the Directive clarify Federal statistical agencies' roles and responsibilities regarding data archiving and data access for future secondary analysis, as recommended in *Principles and Practices.* Such guidance would describe which data should be retained, how the data should be archived and for what period of time, and how data should be accessed responsibly. One comment placed this request within a broader request for leadership in navigating "big data" conceptualization and management. A related comment suggested Federal statistical agencies and recognized statistical units employ a common metadata classification system to better enable interoperability and utility of data. In response, as stated above, we agree that data storage is an important element in the data life cycle responsibilities assigned to Federal statistical agencies and recognized statistical units, and have included that activity more explicitly within the Directive. However, the purpose of this Directive is to provide a concise, stable, and unified framework for previously established responsibilities. Therefore, inclusion of current best practices relating to data archives and access is outside the scope of this Directive and, if developed, would be issued under separate guidance.

Responsibility 3. One comment recommended that the Directive include a statement describing how autonomy relates to the other three responsibilities, since doing so would underscore the importance of autonomy in achieving each responsibility. We agree that the responsibility of objectivity is strongly related to each of the fundamental responsibilities identified in this Directive. We think emphasizing the importance of achieving all four responsibilities in concert would underscore the value and relationship of each responsibility toward the overall goal of supporting the quality of Federal statistics. We have added language to that effect.

One comment requested that explicit language be added to clarify and harmonize this Directive and other legislation, regulations, and policies. In particular, the comment urged OMB to address how this Directive intersects with provisions of the Education Sciences Reform Act (ESRA) of 2002, wherein an agency external to a Federal statistical agency could be interpreted to have authority to determine when and how to disseminate the statistical products of a Federal statistical agency. In response, we believe this circumstance should not impede the implementation of the Directive. Thus, when a statute authorizes an external agency to make determinations that this Directive assigns as the proper responsibility of a Federal statistical agency, the authorized agency should delegate those determinations to the Federal statistical agency. Doing so benefits both the Federal statistical agency and its Department. Both parties have a clear, vested interest in preserving the actual and perceived objectivity of Government data. Indeed, implementation of policy recommendations could be profoundly undermined should there be public distrust in the statistical estimates used as the basis for the decisions made by policy-makers. If the Department believes the Federal statistical agency or recognized statistical unit does not have capacity to carry out the responsibilities set forth in this Directive, then the Department should make the necessary resources available to the Federal statistical agency or recognized statistical unit.

Another comment recommended that OMB include "information technology systems" among the items that should not be permitted to affect the autonomy of Federal statistical agencies, since these can affect the release, transparency, integrity, and confidentiality of official Federal statistics. We interpret this comment as a recommendation to emphasize that a Federal statistical agency or recognized statistical unit has authority over the processing, storage, and maintenance of the data that it collects. We agree and have added text referencing *CIPSEA Implementation Guidance.*

Accordingly, OMB hereby adopts and issues the attached final Statistical Policy Directive No. 1, *Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units.*

Howard Shelanski,

Administrator, Office of Information and Regulatory Affairs.

Statistical Policy Directive No. 1: Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units

Authority And Purpose: This Directive affirms the fundamental responsibilities of Federal statistical agencies and recognized statistical units and defines the requirements governing the design, collection, processing, editing, compilation, storage, analysis, release, and dissemination of statistical information by Federal statistical agencies and recognized statistical units. The Directive is issued under the authority of the *Budget and Accounting Procedures Act* of 1950 (31 U.S.C. 1104 (d)) and the *Paperwork Reduction Act* of 1995 (44 U.S.C. 3504 (e)).

Scope: This Directive applies to *Federal statistical agencies and recognized statistical units*—defined in the *Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical*

Efficiency Act of 2002 (CIPSEA Implementation Guidance) (72 FR 33362 at 33368, June 15, 2007), as well as Federal statistical agencies and statistical units newly recognized by OMB after the issuance of this Directive, as agencies or organizational units of the Executive Branch whose principal missions are statistical activities.

Definitions: As defined in *Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002* (CIPSEA) (Pub. L. 107–347, title V; 116 Stat. 2962, Dec. 17, 2002), *statistical activities* are the collection, compilation, processing, analysis, or dissemination of data [1] for the purpose of describing or making estimates concerning the whole, or relevant groups or components within, the economy, society, or the natural environment, including the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames. CIPSEA defines *statistical purpose* as the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support such purposes. As defined in *Principles and Practices for a Federal Statistical Agency* (*Principles and Practices*), *relevance* means measuring processes, activities, and things that matter to policy makers, and public and private sector data users.[2] *Objectivity,* as defined in *Government-wide Information Quality Guidelines* (Information Quality Guidelines) (67 FR 8453, Jan. 3, 2002), refers to disseminating information in an accurate, clear, complete, and unbiased manner. As defined in *Principles and Practices* (p. 11), *accuracy* refers to generating statistics that consistently match the events and trends being measured. *Confidentiality* refers to a quality or condition of information as an obligation not to disclose that information to an unauthorized party.[3]

Introduction: This Directive delineates the fundamental responsibilities of Federal statistical agencies and recognized statistical units. The responsibilities in this Directive are built upon and are consistent with the goals and principles of the *Paperwork Reduction Act* of 1995 (44 U.S.C. 3504 (e)), the *Information Quality Act* (Pub. L. 106–554, Division C, title V, Sec. 515, Dec. 21, 2000; 114 Stat. 2763A–153 to 2763A–154), *Government-wide Information Quality Guidelines* (Information Quality Guidelines) (67 FR 8453, Jan. 3, 2002), *Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002* (CIPSEA) (Pub. L. 107–347, title V; 116 Stat. 2962, Dec. 17, 2002), *Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002* (CIPSEA Implementation Guidance) (72 FR 33362 at 33368, June 15, 2007), the *Privacy Act of 1974* (5 U.S.C. 552a), the *Privacy Act Implementation(PB): Guidelines and Responsibilities* (40 FR 28948, Jul. 9, 1975), *Section 208 of the E-Government Act of 2002* (Pub. L. 107–347, 44 U.S.C. Ch 36, Dec. 17, 2002), OMB's *Circular A–130* (revised Nov. 28, 2000), the *President's Memorandum on the Preservation and Promotion of Scientific Integrity* (March 9, 2009), the *Memorandum for the Heads of Executive Departments and Agencies* (December 17, 2010) issued by the Director of the Office of Science and Technology Policy (OSTP Memorandum of December 17, 2010), *Standards and Guidelines for Statistical Surveys* (71 FR 55522, Sept. 22, 2006), *Statistical Policy Directive No. 3, Compilation, Release, and Evaluation of Principal Federal Economic Indicators* (Directive 3) (50 FR 38932, Sept. 25, 1985), *Statistical Policy Directive No. 4, Release and Dissemination of Statistical Products Produced by Federal Statistical Agencies* (Directive 4) (73 FR 12622–12625, Mar. 7, 2008) and *Principles and Practices for a Federal Statistical Agency* (*Principles and Practices*). The responsibilities in this Directive are also consistent with the *European Statistics Code of Practice* [4] and the *United Nations Fundamental Principles of Official Statistics.*[5] This Directive is not intended to replace current guidance; agencies must continue to comply with all applicable laws, regulations, and policies.

The responsibilities delineated in this Directive provide a framework that supports Federal statistical policy and serves as a foundation for Federal statistical activities, promoting trust among statistical agencies, data providers, and data users. Data users rely upon an agency's reputation as an objective source of relevant, accurate, and objective statistics, and data providers rely upon an agency's authority and reputation to honor its pledge to protect the confidentiality of their responses and to use them exclusively for statistical purposes. Federal statistical agencies and recognized statistical units must adhere to these responsibilities and adopt policies, best practices, and appropriate procedures to implement them. Federal departments must enable, support, and facilitate Federal statistical agencies and recognized statistical units as they implement these responsibilities.

Responsibilities: It is the responsibility of Federal statistical agencies and recognized statistical units to *produce and disseminate relevant and timely information; conduct credible, accurate, and objective statistical activities;* and *protect the trust of information providers by ensuring confidentiality and exclusive statistical use of their responses* as described below.[6] The benefits to Federal statistical data users and the Nation of maintaining and enhancing the quality of official Federal statistics envisioned by this Directive become fully realized when Federal statistical agencies and recognized statistical units, with enabling support and facilitation from their Departments, achieve these mutually-reinforcing responsibilities concurrently.

Responsibility 1: Produce and disseminate relevant and timely information. The core mission of Federal statistical agencies and recognized statistical units is to produce

[1] Statistical activities implicitly but necessarily involve the design, editing, and storage of statistical data as instrumental to collection, compilation, processing, analysis, release, and dissemination of statistical information. Therefore, for clarity, this Directive explicitly refers to each of these as statistical activities.

[2] *Principles and Practices for a Federal Statistical Agency,* National Research Council of the National Academies, Fifth edition, Committee on National Statistics, Constance F. Citro and Miron L. Straf, Editors, Division of Behavioral and Social Sciences and Education. Washington, DC The National Academies Press, (2013), p. 11.

[3] *Private Lives and Public Policies: Confidentiality and Accessibility of Government Statistics.* Committee on National Statistics, Commission on Behavioral and Social Sciences and Education, National Research Council and the Social Science Research Council, Washington, DC National Academy Press (1993) p. 22.

[4] *European Statistics Code of Practice for the National and Community Statistical Authorities,* European Statistical System, Adopted September 28, 2011.

[5] *Fundamental Principles of Official Statistics,* United Nations Statistical Commission, adopted April 11–15, 1994. Revised preamble adopted February 26-March 1, 2013; adopted July 24, 2013 by the United Nations Economic and Social Council; adopted January 29, 2014 by the United Nations General Assembly (with sponsorship by the United States).

[6] Although the responsibilities of statistical agencies and recognized statistical units are numbered here for ease of reference, no ranking of importance is implied.

relevant and timely statistical information to inform decision-makers in governments, businesses, institutions, and households. Federal statistical agencies and recognized statistical units must be knowledgeable about the issues and requirements of programs and policies relating to their subject domains. This requires communication and coordination among agencies and within and across Departments when planning information collection and dissemination activities. In addition, Federal statistical agencies and recognized statistical units must seek input regularly from the broadest range of private- and public-sector data users, including analysts and policy makers within Federal, State, local, tribal, and territorial government agencies; academic researchers; private sector businesses and constituent groups; and non-profit organizations. Program and policy-relevant information may be directly collected from individuals, organizations, or establishments through surveys; administrative records collected and maintained by the agency, or other government agencies; datasets available from the private sector; or publicly available information released on Internet Web sites that meets an agency's quality standards. Statistical agencies should be innovative in applying new technologies in their methods for designing, collecting, processing, editing, compiling, storing, analyzing, releasing, and disseminating data to improve the accuracy and timeliness of their information and the efficiency of their operations. (*Principles and Practices,* pp. 17 and 53)

Responsibility 2: Conduct credible and accurate statistical activities. Federal statistical agencies and recognized statistical units apply sound statistical methods to ensure statistical products are accurate. Federal statistical agencies and recognized statistical units achieve this by regularly evaluating the data and information products they publicly release against the OMB Government-wide *Information Quality Guidelines* as well as their individual agency's information quality guidelines. Where appropriate, information about how the data were collected and any known or potential data limitations or sources of error (such as population or market coverage, or sampling, measurement, processing, or modeling errors) should be described to data users so they can evaluate the suitability of the data for a particular purpose. Errata identified after data release should be described to data users on an ongoing basis as verified. Federal statistical agencies and recognized statistical units must be vigilant in seeking new methods and adopting new technologies to ensure the quality and efficiency of the information they collect and produce. (*Principles and Practices,* pp. 42–43) Data derived from outside sources must be described in information products and communication materials so that users can employ exogenous information appropriately. Federal statistical agencies and recognized statistical units must provide complete documentation of their dissemination policies and ensure that all users have equitable access to data disseminated to the public (*Statistical Policy Directive No. 4,* 73 FR 12622 at 12625). Additionally, Federal statistical agencies and recognized statistical units must periodically review the techniques and procedures used to implement their information quality guidelines to keep pace with changes in best practices and technology.

Responsibility 3: Conduct objective statistical activities. It is paramount that Federal statistical agencies and recognized statistical units produce data that are impartial, clear, and complete and are readily perceived as such by the public. The objectivity of the information released to the public is maximized by making information available on an equitable, policy-neutral, transparent, timely, and punctual basis. Accordingly, Federal statistical agencies and recognized statistical units must function in an environment that is clearly separate and autonomous from the other administrative, regulatory, law enforcement, or policy-making activities within their respective Departments. Specifically, Federal statistical agencies and recognized statistical units must be able to conduct statistical activities autonomously when determining what information to collect and process, the physical security and information systems security employed to protect confidential data, which methods to apply in their estimation procedures and data analysis, when and how to store and disseminate their statistical products, and which staff to select to join their agencies. In order to maintain credibility with data providers and users as well as the public, Federal statistical agencies and recognized statistical units must seek to avoid even the appearance that agency design, collection, processing, editing, compilation, storage, analysis, release, and dissemination processes may be manipulated. The actual and perceived credibility of Federal statistics requires assurance that the selection of candidates for statistical positions is based primarily on their scientific and technical knowledge, credentials, experience, and integrity. Moreover, Federal statistical agencies and recognized statistical units must maintain and develop in-house staff who are trained in statistical methodology to properly plan, design, and implement core data collection operations and to accurately analyze their data. (*OMB Government-wide Information Quality Guidelines; CIPSEA Implementation Guidance,* 33362 at 33371; *OSTP Memorandum of December 17, 2010; Principles and Practices,* p. 70)

Responsibility 4: Protect the trust of information providers by ensuring the confidentiality and exclusive statistical use of their responses. Maintaining and enhancing the public's trust in a Federal statistical agency's or recognized statistical unit's ability to protect the integrity of the information provided under a pledge of confidentiality is essential for the completeness and accuracy of statistical information as well as the efficiency and burden of its production. Providers of information, such as survey respondents, must be able to trust and rely upon the information and confidentiality pledges that Federal statistical agencies and recognized statistical units provide about the need to collect information and its intended use for exclusively statistical purposes. Maintaining consistent and effective protection reduces public confusion, uncertainty, and concern about the treatment and use of reported information. (*Order Providing for the Confidentiality of Statistical Information,* 62 FR 35044 (June 27, 1997)) In addition, adopting this protection reduces the cost and reporting burden imposed by programs of Federal statistical agencies and recognized statistical units. Fostering trust among data providers about a statistical agency's authority and ability to protect the confidentiality and exclusive statistical use of responses promotes higher participation in surveys and accurate reporting of information from respondents. Federal statistical agencies and recognized statistical units build and sustain trust with data providers by maintaining a strong organizational climate that safeguards and protects the integrity and confidentiality of the data collected, processed, and analyzed to ensure that the information is secure against unauthorized access, editing, deletion, or use. Federal statistical agencies and recognized statistical units must fully adhere to legal requirements and follow

best practices for protecting the confidentiality of data, including training their staffs and agents, and ensuring the physical and information system security of confidential information. (*CIPSEA Implementation Guidance*, 33362 at 33374)

These responsibilities provide a framework for Federal statistical policy and the foundation upon which core functions of Federal statistical agencies and recognized statistical units are grounded. Adherence to these responsibilities ensures that the Federal statistical system continues to provide relevant, accurate, objective statistics in a manner that honors and maintains the public's trust.

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FEDERAL REGISTER

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Part IV

The President

Federal Register
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Presidential Documents

Title 3—

The President

Presidential Determination No. 2015–02 of November 21, 2014

Presidential Determination Pursuant to Section 1245(d)(4)(B) and (C) of the National Defense Authorization Act for Fiscal Year 2012

Memorandum for the Secretary of State[,] the Secretary of the Treasury[, and] the Secretary of Energy

By the authority vested in me as President by the Constitution and the laws of the United States, after carefully considering the report submitted to the Congress by the Energy Information Administration on October 30, 2014, and other relevant factors, including global economic conditions, increased oil production by certain countries, and the level of spare capacity, I determine, pursuant to section 1245(d)(4)(B) and (C) of the National Defense Authorization Act for Fiscal Year 2012, Public Law 112–81, and consistent with my prior determinations, that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions.

I will continue to monitor this situation closely.

The Secretary of State is hereby authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, November 21, 2014

[FR Doc. 2014–28481
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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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