**Purpose of Advance Notice**

This advance notice is for the purpose of soliciting comments on the necessity for general rulemaking on the NPS management of climbing activities. The NPS in any proposed regulations would, among other things, clarify NPS climbing management as follows:

1. Climbing would be a generally allowed activity in all park areas. Management authority to determine appropriate activities and to regulate climbing in specific park areas—including not allowing new or existing climbing, based on the unique resources and other activities in a park area, or other management responsibilities—would be left with individual park superintendents.

2. Gluing or chipping rock to create, augment, or reinforce holds, or other damaging practices such as forcibly prying off rock or destroying vegetation to enhance a route, are viewed by the NPS as not essential or appropriate for the practice of climbing and an unacceptable impact to park resources. Proposed regulations would define and prohibit such activities in all park areas.

3. Motorized drills are viewed by the NPS as not essential or appropriate for the pursuit of climbing. They allow the rapid proliferation of both fixed anchors and new routes, leading to a rapid increase in direct and associated impacts to park resources. While their general use is currently prohibited in wilderness areas and in nondeveloped areas by 36 CFR 2.12, proposed regulations would make it clear that they are specifically prohibited.

4. The use of fixed anchors (bolts, pitons, rurps, bashies, etc., often used for belay and rappel anchors, protection, and direct aid) is necessary and appropriate in some instances for the safe practice of roped climbing. Unfortunately, their use causes permanent alteration of the rock. Newer equipment (primarily various types of nuts and camming devices) allows the use of cracks for protection with no or minimal disturbance of the rock surface. These devices may reduce, but do not completely eliminate, the need for fixed anchors. Because impacts caused by fixed anchors are inherently cumulative, parks must manage their use at some level short of resource impairment and not in derogation of park values and purposes. This point should be determined by individual parks, and indeed may have already been reached or exceeded in some parks, or in some park climbing areas.

A proposed regulation would generally address the use of fixed anchors, clarifying the authority and responsibility of park managers to regulate their use at the park level, including prohibition if necessary, to protect park resources and values. The NPS is interested in hearing comments specific to the management of fixed anchors. Under what conditions should fixed anchors be allowed, prohibited or regulated? Should other climbing equipment and accoutrements be addressed in regulation?

5. Other resources potentially affected by climbing, including critical or sensitive plant and wildlife communities, and threatened or endangered species, are protected under other laws and regulations. However, prohibitions against climbing in areas of cultural and archaeological resources, or areas of critical or sensitive plant and wildlife communities or species, could be addressed in a general regulation.

6. As of 1990, the NPS had over 39 million acres of designated wilderness. Wilderness recommendations submitted to Congress total another 7.1 million acres, while wilderness studies in progress involve another 46.7 million acres (most in Alaska). Many climbing areas are currently in designated wilderness (i.e., Yosemite National Park, California; Pinnacles National Monument, California; Black Canyon of the Gunnison National Monument, Colorado).

Wilderness is defined by law to be "an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions." A wilderness area must generally appear "to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable." (Wilderness Act of 1964; 16 U.S.C. 1311 *et seq.*). When wilderness is designated in a park, the preservation of wilderness character becomes an additional statutory purpose of the park. The preservation of wilderness character and resources while providing for appropriate use will be the primary management responsibility other than the saving of human life (POL, 6:3). Park managers must specifically address climbing as it relates to the added protection provided wilderness areas.

The NPS would specifically like to hear comments relative to the management of climbing in designated wilderness areas in National Parks. Should climbing in wilderness areas be regulated differently than in other areas? How should fixed anchors or the use of other climbing equipment be managed in wilderness?

There is no intent by the NPS by this Notice to specifically regulate individual climber safety. Climbing is a high-risk, high-adventure sport which the NPS has neither the authority nor the ability to physically control (POL, 8:6). While the NPS has the discretionary authority to intervene in any activity for health, safety or administrative reasons, the NPS views climber safety as being primarily the responsibility of climbers.

**Request for Comments**

The NPS solicits comments and information from all segments of the climbing public, and from other park users with an interest in climbing management in parks, on recommended ways in which to manage rock climbing in accordance with the above discussion. The primary focus of this advance notice is on roped rock climbing using artificial devices for ascent, descent, or protection. We are not seeking comments regarding mountaineering (i.e., snow and glacial "expedition" climbing practiced in areas such as Denali National Park or Mt. Rainier National Park). Any regulations that may eventually be promulgated will be general in nature and applicable to the entire National Park System. It is not the intent of the NPS in this notice to develop individual regulations specific to any one park area. However, examples of climbing activities observed in one park area may be used to support an opinion or comment on overall climbing management.

Persons submitting comments based on the above discussion should include their name and address, and identify clearly and specifically the particular aspects of climbing that they feel should or should not be regulated and how (to what extent). Specific reasons should be provided to support such recommendations.

All comments received by the NPS at the address and by the date listed above will be reviewed and utilized in any development of proposed regulations. Comments received pursuant to this Advance Notice of Proposed Rulemaking will be analyzed and discussed in the preamble to the Proposed Rule. Any proposed rulemaking will also be made available for public review and comment.

Dated: March 10, 1993.

**Herbert S. Cables, Jr.,**

*Director, National Park Service.*

[FR Doc. 93–13958 Filed 6–11–93; 8:45 am]

BILLING CODE 4310–70–M

## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Chapter 1**

**[FR–4665–6]**

### Open Meeting on the Definition of Solid Waste and Hazardous Waste Recycling

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Public Meeting.

**SUMMARY:** The Environmental Protection Agency (EPA) is conducting a public meeting on revising the regulatory definition of solid waste under the Resource Conservation and Recovery Act (RCRA). The revisions are intended to simplify the regulations and to eliminate disincentives to recycling while maintaining full protection of human health and the environment. They are also intended to reduce any possible current underregulation of hazardous waste recycling.

The Agency has selected sixteen individuals to provide technical and policy expertise at the meeting. These individuals will provide their opinions about the issues of hazardous waste recycling and how the federal solid waste rules affect such recycling. The individuals are:

Dorothy Kelly (Ciba-Geigy Corp.)
John Fognani (Gibson, Dunn, and Crutcher)
Harvey Alter (Chamber of Commerce)
Jeff Reamy (Phillips Petroleum Co.)
John Jewett (Solite Corp.)
Bob Wescott (Wesco Parts Cleaners)
Richard Fortuna (Hazardous Waste Treatment Council)
John Wittenborn (Collier, Rill, Shannon, and Scott)
William Collinson (General Motors Corp.)
Gerald Dumas (RSR Corp.)
Kevin Igli (Waste Management Inc.)
Karen Florini (Consultant)
David Lennett (Consultant)
Melinda Taylor (Consultant)
Roy Brower (State of Oregon)
Pat Matuseski (State of Minnesota)

EPA participants in the discussions will be Sylvia Lowrance, Director of the Office of Solid Waste, and a representative from an EPA Region (individual to be determined). In addition, any interested member of the public may attend the meeting.

**DATES:** The meeting will take place on July 7, 1993 from 8:30 AM to 5:30 PM, and on July 8, 1993 from 8:30 AM to 12:30 PM.

**ADDRESSES:** The meeting will take place at the Omni Shoreham Hotel at 2500 Calvert St., NW, Washington, DC, 20008, (202) 234–0700.

**FOR FURTHER INFORMATION CONTACT:** For additional information on the meeting, please contact Marilyn Goode of EPA's Office of Solid Waste at (202) 260–8104.

Dated: June 9, 1993.

**Deborah Dalton,**

*Deputy Director, Consensus and Dispute Resolution Program.*

[FR Doc. 93–13941 Filed 6–11–93; 8:45 am]

BILLING CODE 6560–50–P–M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**44 CFR Part 67**

**[Docket No. FEMA–7070]**

### Proposed Flood Elevation Determinations

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base flood elevation modifications for the communities listed below. The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

**FOR FURTHER INFORMATION CONTACT:** William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472 (202) 646–2766.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA or Agency) gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for each community listed, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

**National Environmental Policy Act**

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act**

The Federal Insurance Administrator has determined that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

**Regulatory Impact Analysis**

This proposed rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

**Executive Order 12612, Federalism**

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

**Executive Order 12778, Civil Justice Reform**

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

## PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§67.4 [Amended]**

2. Section 67.4 is proposed to be amended as follows:

SOURCE OF FLOODING AND LOCATION

| State | City/town/county | Source of flooding | Location | # Depth in feet above ground * Elevation in feet (NGVD) |
|---|---|---|---|---|
| Louisiana | Sterlington, Town, Ouachita Parish. | North Branch Chauvin Bayou. | At downstream corporate limits | *72 |
| | | | Approximately 100 feet upstream of SR 2 | *75 |

Maps available for inspection at the Sterlington Town Hall, 103 High Street, Sterlington, Louisiana.

Send comments to The Honorable J.H. Rainwater, Mayor of the Town of Sterlington, Ouachita Parish, 103 High Street, Sterlington, Louisiana 71280.

**§67.4 [Amended]**

3. The tables published under the authority of § 67.4 are proposed to be amended as follows:

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Arizona | Navajo County, Unincorporated Areas. | Silver Creek | Approximately 180 feet downstream of the northern corporate limits of the Town of Snowflake. | *5,567 | *5,562 |
| | | | At the northern corporate limits of the Town of Snowflake. | *5,570 | *5,563 |
| | | | Approximately 1,000 feet downstream of Hoyt Road. | *5,591 | *5,588 |
| | | | At the southern corporate limits of the Town of Taylor. | *5,646 | *5,646 |

Maps are available for review at the Engineering Department, 100 East Carter Drive, Holbrook, Arizona.

Send comments to The Honorable Larry Layton, Chairman, Navajo County Board of Supervisors, P.O. Box 668, Holbrook, Arizona 86025.

| | | | | | |
|---|---|---|---|---|---|
| Arizona | Town of Taylor, Navajo County. | Silver Creek | Approximately 4,700 feet downstream of the confluence with Railroad Grade Wash (at the Northern corporate limit of the Town of Taylor). | *5,609 | *5,607 |
| | | | Just upstream of Silver Creek Lane | *5,620 | *5,617 |
| | | | Approximately 500 feet upstream of Willow Lane. | *5,622 | *5,620 |
| | | | Approximately 3,800 feet upstream of Willow Lane. | *5,627 | *5,625 |

Maps are available for review at Town Hall, 425 West Papermill Road, Taylor, Arizona.

Send comments to The Honorable Gerald Gullick, Mayor, Town of Taylor, P.O. Box 158, Taylor, Arizona 85939.

| | | | | | |
|---|---|---|---|---|---|
| California | Kern County (unincorporated areas). | Sand Canyon | Approximately 5,500 feet northeast of the intersection of Three Flags Highway and Onyx Peak Avenue. | None | #2 |
| | | | Approximately 2,800 feet west of the intersection of Three Flags Highway and Onyx Peak Avenue. | None | #2 |
| | | | Approximately 4,000 feet west of the intersection of Three Flags Highway and Onyx Peak Avenue. | None | #3 |
| | | Grapevine Canyon | Along Three Flags Highway between 14,500 and 5,000 feet north of the intersection of Leliter Road. | #2 | #1 |
| | | | Approximately 3,000 feet downstream of the second Los Angeles Aqueduct. | #3 | #1 |
| | | | Approximately 1,500 feet downstream of the second Los Angeles Aqueduct. | #4 | #2 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 700 feet downstream of the second Los Angeles Aqueduct. | #5 | #3 |
| | | | At the second Los Angeles Aqueduct ..... | #7 | #4 |
| | | Short Canyon ..... | At the intersection of Brown-Inyokern Road and Willcox Avenue. | #2 | #1 |
| | | | Approximately 2,500 feet north of the intersection of Three Flags Highway and Leliter Road. | None | #1 |
| | | | Approximately 4,000 feet south of the intersection of Three Flags Highway and Leliter Road. | None | #1 |
| | | | Approximately 4,000 feet west of the intersection of Three Flags Highway and Leliter Road. | None | #2 |
| | | Indian Wells Canyon ..... | At the intersection of Athel Street and Quail Street. | #1 | #1 |
| | | | Approximately 7,500 feet south of the intersection of Three Pines Canyon Avenue and Hawk Street. | #2 | #1 |
| | | | At the intersection of Three Pines Canyon Avenue and Sierra Vista Street. | #3 | #1 |
| | | | Approximately 7,000 feet south of the intersection of Placer Street and Three Pines Canyon Avenue. | None | #1 |
| | | | Approximately 5,000 feet south of the intersection of Bull Run Street and Three Pines Canyon Avenue. | #2 | #2 |
| | | | Approximately 2,000 feet west of the intersection of Three Pines Canyon Avenue and Sierra Vista Street. | #4 | #2 |
| | | | Approximately 1,500 feet southwest of Indian Wells Canyon Road measured along Highway 14. | None | #2 |
| | | | Approximately 300 feet north of the intersection of Indian Wells Canyon Road and Highway 14. | #8 | #3 |

Maps are available for review at the Kern County Engineering and Survey Services Department, 2700 "M" Street, Suite 570, Bakersfield, California.

Send comments to The Honorable Roy Ashburn, Chairperson, Kern County Board of Supervisors, 1115 Truxton Avenue, Fifth Floor, Bakersfield, California 93301.

| | | | | | |
|---|---|---|---|---|---|
| California ..... | City of Merced, Merced County. | Bear Creek (between levees). | Downstream of U.S. Highway 99 ..... | #1 | *163 |

Maps are available for review at Merced City Hall, Department of Public Works, 678 West 18th Street, Merced, California

Send comments to The Honorable James Lindsey, Mayor, City of Merced, City Hall, 678 West 18th Street, Merced, California 95340.

| | | | | | |
|---|---|---|---|---|---|
| California ..... | Merced County, Unincorporated Areas. | Bear Creek (with levees) .. | At the confluence of Black Rascal Creek . | *161 | *163 |
| | | | Approximately 200 feet downstream of U.S. Highway 99. | *163 | *163 |
| | | Canal Creek (with levee) .. | At the confluence with Black Rascal Slough. | *146 | *150 |
| | | | At Landram Avenue ..... | *146 | *150 |
| | | | At Elliot Avenue ..... | *150 | *150 |
| | | Black Rascal Slough (without levee). | Southeast of the south levee and north of State Route 140 across from Buhach Road. | *140 | *142 |
| | | Shallow Flooding ..... | South of Merced Municipal Airport and north of Mission Avenue. | None | *#1 |
| | | | South of Childs Avenue and north of Mission Avenue between Coffee Avenue and State Route 59. | None | *#1 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps are available for review at Merced County Planning Department, 2222 M Street, Merced, California. Send comments to The Honorable Clark Channing, County Administrator, Merced County, 2222 M Street, Merced, California 95340. | | | | | |
| Idaho | Elmore County, Unincorporated Areas. | Rattlesnake Creek | Approximately 440 feet downstream of 18th South Street. | None | *3,114 |
| | | | Just downstream of 6th South Street | *3,128 | *3,132 |
| | | | Approximately 450 feet downstream of 8th North Street. | *3,144 | *3,143 |
| | | | Just upstream of Interstate Route 84 | *3,184 | *3,204 |
| | | | Just downstream of Mountain Home Reservoir Spillway. | None | *3,285 |
| | | Rattlesnake Creek Diversion. | At the confluence with Rattlesnake Creek | *3,122 | *3,122 |
| | | | Approximately 350 feet downstream of 9th South Street. | *3,125 | *3,125 |
| | | | Approximately 1,000 feet upstream of 9th South Street. | *3,128 | *3,129 |
| | | Rattlesnake Creek Gated Outlet. | At the confluence with Rattlesnake Creek | *3,218 | *3,218 |
| | | | Just downstream of the Mountain Home Reservoir Gated Outlet. | None | *3,240 |
| Maps are available for review at the Elmore County Courthouse, Planning and Zoning Department, 150 South Fourth East Street, Mountain Home, Idaho. Send comments to The Honorable John Hiler, Chairperson, Elmore County Board of Commissioners, 150 South Fourth East Street, Suite 3, Mountain Home, Idaho 83647. | | | | | |
| Idaho | City of Mountain Home, Elmore County. | Rattlesnake Creek | Approximately 400 feet downstream of American Legion Boulevard. | None | *3,138 |
| | | | Just upstream of Eighth North Street | None | *3,148 |
| | | | Approximately 2,900 feet upstream of Eighth North Street. | None | *3,165 |
| | | Rattlesnake Creek Diversion. | At 12th South Street | None | *3,122 |
| | | | Just upstream of Sixth South Street | None | *3,130 |
| | | | Just downstream of American Legion Boulevard. | None | *3,139 |
| Maps are available for review at City Hall, 160 South Third East Street, Mountain Home, Idaho. Send comments to The Honorable Donald Etter, Mayor, City of Mountain Home, 160 South Third East Street, P.O. Box 10, Mountain Home, Idaho 83647. | | | | | |
| Kentucky | Russellville (City), Logan County. | Town Branch | At upstream side of Newton Road | *563 | *564 |
| | | | At downstream face of U.S. Highway 79 | *618 | *621 |
| | | Town Branch Tributary C | At confluence with Town Branch | *576 | *577 |
| | | | Approximately 230 feet upstream of confluence with Town Branch. | *576 | *577 |
| | | Town Branch Tributary D | Approximately 150 feet upstream of confluence with Town Branch. | *575 | *576 |
| | | | At confluence of Town Branch Tributary F | *596 | *595 |
| | | Town Branch Tributary F | At confluence of Town Branch Tributary D. | *596 | *595 |
| | | | Approximately 60 feet downstream of East 9th Street. | *598 | *597 |
| | | Town Branch Tributary G | At confluence with Town Branch | *564 | *565 |
| | | | Approximately 250 feet upstream of confluence with Town Branch. | *564 | *565 |
| Maps available for inspection at the City Engineering Office, 106 S.W. Park Square, Russellville, Kentucky. Send comments to The Honorable Ken Smith, Mayor of the City of Russellville, Logan County, 106 S.W. Park Square, Russellville, Kentucky 42276. | | | | | |
| Louisiana | Monroe, City, Ouachita Parish. | West Prong Young's Bayou. | Approximately 100 feet upstream of confluence with Youngs Bayou. | *70 | *69 |
| | | | At 18th Street | *76 | *75 |
| | | East Prong Young's Bayou | Approximately 100 feet upstream of confluence with West Prong Young's Bayou. | *72 | *71 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 350 feet upstream of Washington Street. | &74 | *72 |
| | | Oliver Road Canal | Approximately 950 feet upstream of confluence with Rogers Street Canal. | *71 | *70 |
| | | | Approximately 2,200 feet upstream of N. 19th Street. | *76 | *75 |
| | | East Branch Oliver Road Canal. | At confluence with Oliver Road Canal | *75 | *74 |
| | | | At Union Pacific Railroad | *75 | *74 |
| | | Airport Canal | Approximately 4,275 feet downstream of Elm Street. | *68 | *69 |
| | | | At South College Avenue | *75 | *76 |
| | | Rogers Street Canal | At confluence with Oliver Road Canal | *71 | *70 |
| | | | Approximately 100 feet downstream of White Street. | *72 | *73 |
| | | Youngs Bayou | Approximately 600 feet upstream of confluence of Swayze School Canal. | *68 | *67 |
| | | | At the confluence of Oliver Road Canal and West Prong Youngs Bayou. | *70 | *69 |
| | | Swayze School Canal | At upstream of U.S. 165 | *70 | *69 |
| | | | Approximately 750 feet downstream of McGee Street. | *71 | *70 |
| | | Ouachita River | At Interstate Route 20 | *85 | *84 |
| | | | At upstream corporate limits | *86 | *85 |

Maps available for inspection at the Munroe City Hall, 400 Lea Joyner Expressway, Munroe, Louisiana.

Send comments to The Honorable Robert Powell, Mayor of the City of Munroe, Ouachita Parish, 400 Lea Joyner Expressway, Munroe, Louisiana 71201.

| | | | | | |
|---|---|---|---|---|---|
| Louisiana | Ouachita Parish | Youngs Bayou | At Ruby Road | *67 | *66 |
| | | | At confluence of Oliver Road Canal and West Prong Youngs Bayou. | *70 | *69 |
| | | West Prong Youngs Bayou. | At confluence with Youngs Bayou | *70 | *69 |
| | | | Area west of confluence with East Prong Youngs Bayou. | *72 | *71 |
| | | Pine Bayou | At confluence with Youngs Bayou | *67 | *66 |
| | | | Approximately 800 feet upstream of Burg Jones Road. | *69 | *70 |
| | | Zoo Branch | At confluence with Pine Bayou | *70 | *69 |
| | | | At Standifer Avenue | *70 | *69 |
| | | Oliver Road Canal | At confluence with Youngs Bayou | *70 | *69 |
| | | | Downstream side of Louberta Street | *72 | *70 |
| | | Canal L–11 | At confluence with Little Bayou Boeuf | None | *69 |
| | | | At confluence of Chauvin Bayou | *71 | *74 |
| | | North Branch Chauvin Bayou. | Approximately 0.5 mile downstream of Smith Road. | *72 | *71 |
| | | | Approximately 1,200 feet downstream of SR 2. | *72 | *71 |
| | | Black Bayou | At confluence of Levee Ditch | *72 | *70 |
| | | | At extreme upstream corporate limits | *73 | *71 |
| | | Black Bayou Tributary | Approximately 350 feet downstream of Hilton Street. | *96 | *95 |
| | | | Approximately 250 feet upstream of Hilton Street. | *101 | *100 |
| | | Levee Ditch | At confluence with Black Bayou | *72 | *70 |
| | | | At upstream corporate limits | *73 | *71 |
| | | Golf Course Creek | At downstream corporate limits | *73 | *71 |
| | | | At upstream corporate limits | *73 | *71 |
| | | Ouachita River | Approximately 1,700 feet downstream of City of Monroe most southerly corporate limits. | None | *83 |
| | | | Approximately 400 feet upstream of City of Munroe most northerly corporate limits. | None | *85 |
| | | Little Bayou Boeuf | At confluence with Bayou Lafourche | None | *69 |
| | | | At the confluence of Canal L–11 | None | *69 |
| | | Petticoat Bayou | At confluence with Bayou Lafourche | None | *66 |
| | | | At confluence of Raccoon Bayou | None | *66 |
| | | Raccoon Bayou | At confluence with Petticoat Bayou | None | *66 |
| | | | Upstream Route 165 | None | *69 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | Black Bayou Lake | At confluence with Bayou DeSiard | None | *75 |
| | | | At Swartz Fairbanks Road | None | *96 |
| | | Airport Canal | At confluence with Youngs Bayou | *68 | *67 |
| | | | At Union Pacific Railroad | None | *74 |
| | | Airport Canal Lateral "A" | At confluence with Airport Canal | *68 | *67 |
| | | | At Illinois Central Railroad | None | *68 |
| | | Caney Creek | At confluence with Canal L–11 | *70 | *73 |
| | | | Approximately 40 feet upstream of State Route 139. | None | *90 |
| | | East Prong Youngs | At downstream corporate limits | *72 | *71 |
| | | | At upstream corporate limits | *72 | *71 |
| | | Bayou Lafourche | At downstream corporate limits | None | *66 |
| | | | At upstream corporate limits | None | *69 |
| | | Swayze School Canal | Approximately 300 feet northeast of intersection of Peters Street and Beverly Street. | *71 | #1 |
| | | | Approximately 650 feet upstream of McGee Street. | *71 | *70 |
| | | | Approximately 1,000 feet upstream of Burg Jones Road. | #1 | *70 |
| | | | At confluence with Youngs Bayou | *68 | *67 |

Maps available for inspection at the Department of Public Works, 337 Well Road, Munroe, Louisiana.

Send comments to Mr. Abe Pierce, President of the Ouachita Parish Police Jury, 300 St. John, Munroe, Louisiana 71201.

| | | | | | |
|---|---|---|---|---|---|
| Louisiana | Richwood, (Town) Ouachita Parish. | Raccoon Bayou | At downstream corporate limits | None | *67 |
| | | | At U.S. Route 165 | None | *69 |

Maps available for inspection at the Richwood Town Hall, 5214 Brown Road, Richwood, Louisiana 71202.

Send comments to The Honorable Edward Lee Harris, Mayor of the Town of Richwood, Ouachita Parish, 5214 Brown Road, Richwood, Louisiana.

| | | | | | |
|---|---|---|---|---|---|
| Louisiana | West Monroe, City (Ouachita Parish). | Black Bayou | Approximately 550 feet downstream of Illinois Central Railroad. | *72 | *71 |
| | | | At downstream side of downstream crossing of Blanchard Street. | *74 | *73 |
| | | Levee Ditch | At downstream corporate limits | *73 | *71 |
| | | | Approximately 500 feet upstream of Interstate Route 20. | *75 | *74 |
| | | Golf Course Creek | At Travis Street | *73 | *71 |
| | | | Approximately 100 feet downstream of U.S. Highway 80 (Claiborne Road). | *77 | *76 |

Maps available for inspection at the West Monroe City Hall, 2305 N. Seventh Street, West Monroe, Louisiana.

Send comments to The Honorable Dave Norris, Mayor of the City of West Monroe, Ouachita Parish, 2305 N. Seventh Street, West Monroe, Louisiana 71291.

| | | | | | |
|---|---|---|---|---|---|
| Maine | Hartford (Town) Oxford County. | Bear Pond | Entire shoreline within community | None | *374 |
| | | Lake Anasagunticook | Entire shoreline within community | None | *405 |
| | | Little Bear Pond | Entire shoreline within community | None | *374 |

Maps available for inspection at the Hartford Municipal, Building, Canton, Maine.

Send comments to Mr. Wes Bennoch, Chairman of the Town of Hartford Board of Supervisors, Oxford County, Hartford Municipal Building, Canton, Maine 04211.

| | | | | | |
|---|---|---|---|---|---|
| Maryland | Princess Anne (Town) Somerset County. | Manokin River | Approximately 1.2 miles downstream of U.S. Route 13. | None | *6 |
| | | | Approximately 0.7 mile upstream of State Route 675 (Somerest Avenue). | None | *6 |
| | | Manokin Branch | At confluence with Manokin River | None | 6 |
| | | | Approximately 720 feet upstream of West Broad Street. | None | *6 |
| | | Wesley Branch | At State Route 363 | None | *6 |
| | | | Approximately 1,600 feet upstream of State Route 363. | None | *6 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the Municipal Building, 11786 Beckford Avenue, Princess Anne, Maryland. | | | | | |
| Send comments to Ms. Johanna Volandt, Town Manager for the Town of Princess Anne, Somerset County, Municipal Building, 11786 Beckford Avenue, Princess Anne, Maryland 21853. | | | | | |
| Mississippi | Unincorporated Areas Greene County. | Faulk Ditch | Approximately 0.5 mile downstream of State Highway 63. | None | *85 |
| | | | Approximately 2.5 miles upstream of State Highway 63. | None | *109 |
| | | Chickasawhay River | Approximately 0.9 mile downstream of State Highway 63. | None | *85 |
| | | | Approximately 0.82 mile upstream of State Highway 63. | None | *88 |
| | | Blakely Creek | At confluence with Chickasawhay River | None | *87 |
| | | | Approximately 0.78 mile upstream of Oak Street. | None | *109 |
| | | Martin Creek | At confluence with Chickasawhay River | None | *85 |
| | | | Approximately 0.6 mile upstream of Lackey Street. | None | *106 |
| Maps available for inspection at the Greene County Courthouse, Board of Supervisors' Office, Leakesville, Mississippi. | | | | | |
| Send comments to Mr. Douglas Walley, President of the Greene County Board of Supervisors, P.O. Box 610, Leaksville, Mississippi 39451. | | | | | |
| Mississippi | Jackson, City (Hinds, Rankin, and Madison Counties). | Pearl River | At downstream corporate limits | *267 | *268 |
| | | | At upstream corporate limits | *283 | *286 |
| | | Cany Creek | At confluence with Pearl River | *268 | *270 |
| | | | Approximately 450 feet upstream of County T.V. Road. | None | *341 |
| | | Hardy Creek | At confluence with Pearl River | *269 | *272 |
| | | | Approximately 0.19 mile upstream of Greenwood Avenue. | *271 | *272 |
| | | Three Mile Creek | At confluence with Pearl River | *269 | *272 |
| | | | Approximately 0.02 mile downstream of Illinois Central Gulf Railroad. | *271 | *272 |
| | | Lynch Creek | At confluence with Pearl River | *272 | *274 |
| | | | Approximately 500 feet upstream of 2nd Illinois Central Gulf Railroad crossing. | *273 | *274 |
| | | Town Creek | At confluence with Pearl River | *273 | *275 |
| | | | At downstream side of Interstate Route 220. | *346 | *349 |
| | | Town Creek Tributary No. 2. | At confluence with Town Creek | *323 | *325 |
| | | | Approximately 0.20 mile upstream of confluence with Town Creek. | *324 | *325 |
| | | Town Creek Tributary No. 3. | At confluence with Town Creek | *282 | *281 |
| | | | Approximately 400 feet upstream of Marion Dunbar Street. | None | *331 |
| | | Town Creek Tributary No. 4. | Approximately 250 feet upstream of confluence with Town Creek. | *287 | *288 |
| | | | Approximately 100 feet downstream of Overbrook Drive. | *336 | *337 |
| | | Stream 1 | At confluence with Pearl River | *282 | *284 |
| | | | Approximately 0.25 mile downstream of Braeburn Drive. | *283 | *284 |
| | | Trahon Creek | At the downstream corporate limits | *277 | *279 |
| | | | Approximately 100 feet downstream of Henderson Road. | *319 | *320 |
| | | Trahon Creek Tributary No. 1. | At confluence with Trahon | *291 | *290 |
| | | | Approximately 120 feet upstream of Lakeshore Road. | *303 | *304 |
| | | Hanging Moss Creek Tributary No. 4 | Approximately 300 feet upstream of confluence with Hanging Moss Creek. | *293 | *294 |
| | | | Approximately 350 feet upstream of Old Agency Road. | None | *372 |
| | | Purple Creek | At confluence with Pearl River | *281 | *283 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 450 feet upstream of Old Canton Road. | *283 | *283 |
| | | Big Creek | Approximately 300 feet upstream of downstream corporate limits. | *319 | *318 |
| | | | At upstream with side of State Route 18 . | *364 | *362 |
| | | Big Creek Tributary No. 5 . | At At confluence with Big Creek | *332 | *333 |
| | | | At downstream side of State Route 18 | None | *386 |
| | | Big Creek Tributary No. 6 . | At confluence with Big Creek Tributary No. 5. | None | *356 |
| | | | At the upstream corporate limits | None | *402 |
| | | Big Creek Tributary No. 7 . | At confluence with Big Creek | *341 | *340 |
| | | | At upstream crossing of State Route 18 .. | None | *361 |
| | | Town Creek Tributary No. 5. | At confluence with Town Creek | *295 | *291 |
| | | | Approximately 100 feet downstream of Illinois Central Gulf Railroad. | *359 | *360 |
| | | Eubanks Creek | At confluence with Pearl River | *277 | *278 |
| | | | Approximately 425 feet downstream of Wood Dale Drive. | *277 | *278 |
| | | Twin Lakes Creek G | At confluence with Pearl River | *278 | *281 |
| | | | Upstream side of Kimwood Drive | *316 | *317 |
| | | Twin Lakes Creek H | At confluence with Pearl River | *280 | *281 |
| | | | Approximately 0.3 mile upstream of confluence with Pearl River. | *280 | *281 |
| | | Belhaven Creek | At confluence with Pearl River | *276 | *277 |
| | | | Approximately 185 feet upstream of U.S. Route 55. | *276 | *277 |
| | | Hanging Moss Creek | At confluence with Pearl River | *281 | *283 |
| | | | Approximately 400 feet upstream of Ridgewood Road. | *282 | *283 |
| | | White Oak Creek (Tributary 3 to Hanging Moss Creek). | At confluence with Hanging Moss Creek . | *281 | *283 |
| | | | Approximately 0.24 mile upstream of Old Canton Road. | *282 | *283 |

Maps available for inspection at the Building Official's office, Department of Planning and Development, 429 South West Street, Jackson, Mississippi.

Send comments to The Honorable Kane Ditto, Mayor of the City of Jackson, hinds, Rankin, and Madison Counties, P.O. Box 17, Jackson, Mississippi 39205.

| | | | | | |
|---|---|---|---|---|---|
| New York | Canton (Village) St. Lawrence County. | Grass River | Approximately 1.02 miles downstream of Main Street. | None | *323 |
| | | | Approximately 0.6 mile upstream of Conrail. | None | *352 |

Maps available for inspection at the Canton Municipal Building, 60 Main Street, Canton, New York.

Send comments to The Honorable David Button, Mayor of the Village of Canton, St. Lawrence County, 60 Main Street, Canton, New York 13617.

| | | | | | |
|---|---|---|---|---|---|
| Pennsylvania | Honesdale (Borough) Wayne County. | Lackawaxen River | Approximately 0.5 mile downstream of Brown Street. | *961 | *953 |
| | | | Approximately 0.66 mile upstream of Main Street. | *991 | *990 |
| | | Dyberry Creek | At confluence with Lackawaxen River | *970 | *968 |
| | | | At upstream corporate limits | *978 | *969 |

Maps available for inspection at the Borough Office, 958 Main Street, Honesdale, Pennsylvania.

Send comments to Mr. William E. Rogers, President of the Borough of Honesdale Council, Wayne County, 958 Main Street, Honesdale, Pennsylvania 18431.

| | | | | | |
|---|---|---|---|---|---|
| Pennsylvania | Palmyra (Township) Wayne County. | Lackawaxen River | Approximately 100 feet upstream of U.S. Route 6 and State Route 590 Bridge. | *896 | *891 |
| | | | Approximately 990 feet downstream of Park Street Bridge. | *929 | *925 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the Township Office, Oak Street, Hawley, Pennsylvania. | | | | | |
| Send comments to Mr. John Mazzga, Chairman of the Township of Palmyra Board of Supervisors, Wayne County, P.O. Box N, Hawley, Pennsylvania 18428. | | | | | |
| Tennessee | Mt. Juliet (City) Wilson County. | Stoners Creek | At Mt. Juliet Road | *549 | *550 |
| | | | Approximately 1.65 miles downstream of Pascal Drive. | *483 | *484 |
| Maps available for inspection at the Mt. Juliet City Hall, 2040 Mt. Juliet Road, Mt. Juliet, Tennessee. | | | | | |
| Send comments to The Honorable Ed Binkley, Mayor of the City of Mt. Juliet, Wilson County, P.O. Box 256, Mt. Juliet, Tennessee 37122. | | | | | |
| Tennessee | Wilson County (Unincorporated Areas). | Stoners Creek | Just upstream of Rutland Road | None | *541 |
| | | | At Old Lebanon Dirt Road | *568 | *569 |
| | | Sinking Creek | Approximately 100 feet of Interstate 40 | *575 | *572 |
| | | | Approximately 800 feet upstream of Stumpy Lane. | None | *594 |
| | | Cedar Creek | Just upstream of North Posey Hill Road | *543 | *542 |
| | | | Approximately 0.8 mile upstream of North Posey Hill Road. | *552 | *553 |
| Maps available for inspection at the Wilson County Planning Department, 236 E. Main Street, Room 104, Lebanon, Tennessee. | | | | | |
| Send comments to Mr. Don Simpson, Wilson County Executive, County Courthouse, Room 104, Lebanon, Tennessee 37087. | | | | | |
| Washington | City of Bothell, King and Snohomish Counties. | North Creek | Just upstream of State Route 522 | *23 | *23 |
| | | | Approximately 700 feet downstream of Interstate 405 South (Landward of West Levee/Riverward ofLeevees/ Landward of East Levee). | *25 | *27/27/24 |
| | | | At the intersection of 195th Street Northeast and the North Creek Parkway. | None | *31 |
| | | | At the upstream crossing of North Creek Parkway (Landward of West Levee/ Riverward of Levees/Landward of East Levee). | None | *36/37/34 |
| | | | Just downstream of Northeast 205th Street. | *36 | *40 |
| Maps are available for review at the City Hall, 18305 101st Avenue Northeast, Bothell, Washington. | | | | | |
| Send comments to The Honorable Paul Cowles, Mayor, City of Bothell, 18305 101st Avenue Northeast, Bothell, Washington 98011. | | | | | |
| Wyoming | Cheyenne City, Laramie County. | Crow Creek | 700 feet above confluence with Dry Creek. | *5,885 | *5,885 |
| | | | 1,440 feet above confluence with Dry Creek. | *5,890 | *5,887 |
| | | | 38,325 feet above confluence with Dry Creek. | *6,009 | *6,009 |
| | | Dry Creek | At the confluence with Crow Creek | *5,887 | *5,886 |
| | | | 3,240 feet above confluence with Crow Creek. | *5,903 | *5,904 |
| | | | 5,400 feet above confluence with Crow Creek. | *5,915 | *5,916 |
| | | | 9,100 feet above confluence with Crow Creek. | *5,921 | *5,921 |
| | | | 18,900 feet above confluence with Crow Creek. | *5,971 | *5,971 |
| Maps are available for review at the City Engineer's Office, 2101 Q'Neil Avenue, Cheyenne, Wyoming. | | | | | |
| Send comments to The Honorable Leo Pando, Mayor, City of Cheyenne, 2101 O'Neil Avenue, Cheyenne, Wyoming 82001. | | | | | |
| Wyoming | Laramie County Unincorporated Areas. | Crow Creek | 1,000 feet below confluence with Dry Creek. | *5,882 | *5,882 |
| | | | 1,440 feet above confluence with Dry Creek. | *5,890 | *5,887 |
| | | | 14,175 feet above confluence with Dry Creek. | *5,919 | *5,919 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | 28,097 feet above confluence with Dry Creek. | *5,977 | *5,977 |
| | | | 37,750 feet above confluence with Dry Creek. | *6,000 | *6,000 |
| | | Dry Creek | At the confluence with Crow Creek | *5,887 | *5,886 |
| | | | 2,850 feet above confluence with Crow Creek. | *5,895 | *5,895 |
| | | | 9,400 feet above confluence with Crow Creek. | *5,937 | *5,938 |
| | | | 16,300 feet above confluence with Crow Creek. | *5,953 | *5,953 |
| | | | 18,120 feet above confluence with Crow Creek. | *5,962 | *5,962 |

Maps are available for review at Laramie County Engineering Office, 2503 East Fox Farm Road, Cheyenne, Wyoming.

Send comments to The Honorable Byran Rookstool, Chairman, Laramie County Commissioner's, P.O. Box 608, Cheyenne, Wyoming 82003.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: June 8, 1993.

**Francis V. Reilly,**

*Deputy Administrator, Federal Insurance Administration.*

[FR Doc. 93–13294 Filed 6–11–93; 8:45 am]

BILLING CODE 6718–03–M

## GENERAL SERVICES ADMINISTRATION

### 48 CFR Parts 538 and 552

**[GSAR Notice 5–348C]**

### General Services Administration Acquisition Regulation; Multiple Award Schedule Price Reductions Clause

**AGENCY:** Office of Acquisition Policy, GSA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the General Services Administration Acquisition Regulation (GSAR) to prescribe a Price Reductions clause for use in multiple award schedule (MAS) solicitations and contracts. The clause proposed is a modification of that which is currently used. The modifications are intended to clarify the clause's applicability and reduce contractor reporting requirements.

**DATES:** Comments are due in writing on or before July 14, 1993.

**ADDRESSES:** Comments should be addressed to the GSA Desk Officer, room 3235, NEOB, Washington, DC 20503 and Marjorie Ashby, Office of GSA Acquisition Policy, 18th and F Streets, NW., room 4006, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Les Davison, Office of GSA Acquisition Policy (202) 501–4768.

**SUPPLEMENTARY INFORMATION:**

### A. Background

The October 1, 1982, GSA Multiple Award Schedule (MAS) Policy Statement (47 FR 50242) prescribed a Price Reductions clause for use in all MAS solicitations and contracts. GSA is proposing to cancel the 1982 Policy Statement. In its place, the agency would adopt regulations based on the provisions of a test of revised MAS procedures authorized by GSA Acquisition Circular (AC–92–1) (57 FR 5862).

The Price Reductions clause is still a necessary aspect of MAS contracting. MAS contracts are negotiated and expressed as a discount from a vendor's commercial price list. Prices are determined fair and reasonable by comparing the discounts which a vender offers to the Government with the discount(s) the vender gives to its commercial customers. The Price Reductions clause is needed to assure that the Government maintains the discount advantage, negotiated at the time of award, throughout the term of the contract.

Some vendors have complained of the paperwork burden imposed by the current Price Reductions clause. The current clause requires, in paragraph (b), that contractors report all price decreases, to all commercial customers, which occur during the term of the MAS contracts. Only price decreases to the customer or category of customer, which was the basis of negotiation, result in a MAS price reduction, however. Consequently, to reduce the paperwork burden on MAS contractors, the Price Reductions clause would be revised to delete the requirement to report price reductions to commercial customers that did not serve as the basis of contract award.

Paragraphs (c) and (d) of the current Price Reductions clause contain a parenthetical phrase stating that they are not applicable to non-schedule ADP/communications/teleprocessing services contracts entered into by MAS contractors with Federal agencies. The meaning of the exclusionary language is not clear to some agencies and contractors. The parenthetical phrase would be revised by this proposal to clarify that the clause is inapplicable to "open market" sales to the Government, i.e., those not placed under an IRMS MAS contract.

Paragraph (d)(2) of the Price Reductions clause requires that all commercial price reductions be reported not later than 10 calendar days after they become effective. Some MAS contractors have stated that it is difficult to comply within the specified timeframe. In consideration of contractor concerns, the clause would be revised to require reporting within 15 calendar days. This increase in reporting time, plus the decrease in information which must be reported under paragraph (b) of the revised clause, should provide relief to MAS contractors.

Paragraph (e) of the current clause requires that, within 10 calendar days after the end of the contract period, a contractor shall submit a statement certifying that it has either reported all price reductions or that there were no applicable reductions. For each price reduction, the contractor must state the date when the price reduction was reported. Consistent with the change proposed to paragraph (d)(2) of the clause, the number of days would be changed to 15 calendar days by this

proposal. Consistent with the change proposed to paragraph (b) of the clause, the requirement to report the date on which each price reduction was reported would be deleted by this proposal.

**B. Executive Order 12291**

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this proposed rule.

**C. Regulatory Flexibility Act**

An initial regulatory flexibility analysis has been prepared and submitted to the Acting Chief Counsel for Advocacy of the Small Business Administration. Copies of the initial regulatory flexibility analysis are available from the Office identified above. The initial regulatory flexibility analysis indicates that the proposed rule will affect contractors, including small businesses, that are awarded contracts under GSA's MAS program. Historically, approximately seventy percent of MAS contractors have been small businesses. Based on the number of MAS contracts currently in effect, it is estimated that 4,288 small businesses will be impacted by the new rule.

**D. Paperwork Reduction Act**

The Price Reductions clause is an information collection subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et sequentia*, and has been submitted to OMB for approval under the Act. Comments on the information collection requirements may be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Washington, DC 20503. The title of the information collection is "GSAR 552.238–75 Price Reductions."

The Price Reductions clause is intended to ensure that the Government maintains its price/discount (and/or term and condition) advantage in relation to the contractor's commercial customer(s) upon which the MAS contract is predicated. The customer or category of customer upon which the award is predicated is identified at the conclusion of negotiations and reflected in the MAS contract.

The Price Reductions clause requires MAS contractors to report price decreases to the customer or category of customer which was the basis of negotiations of the MAS contract to the contracting officer within 15 calendar days. The clause also require the contractor to certify, within 15 days after the end of the contract period, either that there were no applicable price reductions during the contract's term or that any price reduction was reported to the contracting officer.

The Price Reductions clause is needed to assure that the Government maintains the relative discount position, negotiated at the time of contract award, throughout the term of the contract.

The estimated annual burden for the Price Reductions clauses is 36,762 hours. This is based upon an estimated average burden per response of 3 hours, a frequency of 2 responses per respondent, and an estimated number of likely respondents of 6,127.

**List of Subjects in CFR Parts 538 and 552**

Government procurement.

Accordingly, it is proposed that 48 CFR parts 538 and 552 be amended as follows:

1. The authority citation for 48 CFR parts 538 and 552 continues to read as follows:

**Authority:** 40 U.S.C. 486(c).

2. Section 538.203–71 is amended by revising the heading and by adding paragraph (f) to read as follows:

**538.203–71 Solicitation provisions and contract clauses.**

* * * * *

(f) Contracting officers shall insert the clause at 552.238–75, Price Reductions, in all MAS solicitations and contracts.

3. Section 538.272 is added to read as follows:

**538.272 MAS price reductions.**

(a) Prior to the award of a MAS contract, the contracting officer and the offeror shall reach an agreement as to the customer, price lists, and discounts which will serve as the basis of contract award. The award document shall expressly state the price/discount relationship between the Government and the identified commercial customer which are the basis of contract award. The Price Reductions clause is intended to maintain this price/discount relationship (and/or term and condition) between the Government and the offeror's customer or category of customer upon which the MAS contract was predicated for the contract term.

(b) During the term of the contract any changes in discount/pricing practices by the contractor which result or will result in a less advantageous relationship between the Government and the customer or category of customer upon which the MAS contract discount/price was predicated, shall result in a price reduction to the Government to the extent necessary to reflect the original relationship.

4. Section 552.238–75 is added to read as follows:

**552.238–75 Price reductions.**

As prescribed in 538.203–71(f), insert the following clause:

**Price Reductions (XXX 1993)**

(a) *General.* This Price Reductions clause is intended to ensure that the Government maintains its price/discount (and/or term and condition) advantage in relation to the Contractor's commercial customer or category of customers, upon which this contract award was predicated. The customer or category of customers, upon which the contract award is predicated, will be identified at the conclusion of negotiations.

(b) *Price Reductions to Customers Other than the Federal Agencies.*

(1) Prior to the award of a contract, the Contracting Officer and the offeror shall reach an agreement as to the price relationship between the Government and the offeror's identified customer or category of customers upon which the contract award is predicated. This relationship shall be maintained throughout the contract period. Any change in the Contractor's commercial pricing arrangement applicable to the identified customer or category of customers, which disturbs this relationship, will constitute a price reduction.

(2) During the contract period, the Contractor shall report to the Contracting Officer all price reductions to the Contractor's identified customer or category of customers upon which the contract award was predicated. The Contractor's report shall include an explanation of the conditions under which the reductions were made.

(3)(i) A price reduction shall apply to purchases under this contract if, after the date negotiations conclude, the Contractor either:

(A) Reduces prices (or grants any more favorable discounts, or terms and conditions) contained in the commercial catalog, pricelist, schedule or other documents upon which contract award by the Government was predicated; or

(B) Grants special discounts to the identified customer or category of customers, upon which the contract award by the Government was predicated, so as to disturb the discount/price relationship of the Government to that identified customer or category of customers.

(ii) A price reduction pursuant to subparagraph (3)(i) will be effective during the remainder of the contract period, or until further reductions are required by this clause's operation; except that, in the case of a temporary price decrease, the price reduction shall be only for the duration of the temporary period.

(4) This clause will not apply to the Contractor's firm-fixed-price, definite-quantity contracts with specified deliveries in excess of the maximum order limitation specified in this contract.

(5) The Contracting Officer may exempt from the application of this clause any sale at a price below the contract price if caused by an error in quotation or billing, provided adequate documentation is furnished by the

Contractor to the Contracting Officer immediately following the discovery of the error.

(C) *Price Reductions to Federal Agencies.* (This paragraph does not apply to IRMS schedule contracts when a sale to a Federal agency is made pursuant to an open market procurement, i.e., the sale is not an order placed against an IRMS schedule contract.)

Except for temporary "Government-only" price reductions described below, if after the effective date of this contract, the Contractor reduces the price of any contract item to any Federal agency and the sale falls within the contract's maximum order limitation, an equivalent price reduction shall apply to all subsequent sales of the contract item to Federal agencies for the duration of the contract period or until the price is further reduced. The Contractor may offer to the Contracting Officer a temporary "Government-only" price reduction, which has a duration of 30 calendar days or more, except during the last month of the contract period. If offered during the final month of the contract, any such offer must be for the remainder of the contract period.

(d) *Effective Dates and Notifications.* (This paragraph does not apply to GSA IRMS schedule contracts when a sale to a Federal agency is made pursuant to an open market procurement, i.e., the sale is not an order placed against an IRMS schedule contract.)

(1) Any price reduction pursuant to paragraph (b) above, shall become effective for sales to the Government at the same time as the price reduction is made applicable to sales to other customers. Any price reduction pursuant to paragraph (c) above, shall be effective at the time of the initial purchase by the Federal agency (Government) at the reduced price, except in the case of a temporary "Government-only" price reduction, which shall be effective at the time of acceptance by a Contracting Officer. The Contractor shall invoice at such reduced price and indicate thereon that the price reduction is pursuant to this Price Reductions clause until such time as this contract is modified.

(2) The Contractor shall notify the Contracting Officer in writing of any price reduction as soon as possible, but not later than 15 calendar days after its effective date. Failure to give timely notice shall require that such price reduction (including temporary price reductions) apply to the contract for the duration of the contact period, or until the price is further reduced, and may constitute a basis for termination of the contract, as provided in the Default clause of this contract.

(e) *Contractor's Statement of Price Reductions.* The Contractor shall furnish, within 15 calendar days after the end of the contract period, a statement certifying that either (1) there was no applicable reduction during the contract's term; or (2) any price reduction to the customer or category of customers upon which the contract was predicated was reported to the Contracting Officer.

(End of Clause)

Dated: April 16, 1993.

**Richard H. Hopf, III,**

*Associate Administrator for Acquisition Policy.*

[FR Doc. 93–13592 Filed 6–11–93; 8:45 am]

BILLING CODE 6820–61–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 215

**[Docket No. 930514–3114]**

### Subsistence Taking of Northern Fur Seals

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Proposed subsistence harvest estimate and request for comments.

**SUMMARY:** Regulations governing the subsistence taking of northern fur seals require NMFS to publish (1) a summary of the previous year's fur seal harvest and (2) to project the number of seals expected to be taken in the current year to meet subsistence needs of the Aleut residents of the Pribilof Islands, Alaska. This document summarizes the 1992 harvest, and provides an estimate of the number of seals likely to be taken for subsistence in 1993.

Following a 30-day public comment period, NMFS will publish the final expected harvest levels for 1993. The final expected harvest levels will be published prior to the start of the 1993 harvest season, which begins on June 23, 1 week earlier than during previous years.

**DATES:** Written comments must be received on or before July 14, 1993.

**ADDRESSES:** Comments should be addressed to Director, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Dr. Steve Zimmerman (907) 586–7235 or Mr. Michael Payne, (301) 713–2332.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Pribilof Island population of the northern fur seal, *Callorhinus ursinus*, is considered depleted under the Marine Mammal Protection Act (MMPA) (50 CFR 216.15(c)). The subsistence harvest of northern fur seals on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 215, subpart D. These regulations were published under the authority of the Fur Seal Act, 16 U.S.C. 1151 *et seq.*, and the MMPA (16 U.S.C. 1361 *et seq.*) (at 51 FR 24828, July 9, 1986). The purposes of these regulations are to limit the take of fur seals to a level providing for the subsistence needs of the Pribilof Aleuts using non-wasteful harvesting methods, and to restrict taking by sex, age, and season for herd management purposes.

This document summarizes the 1992 subsistence harvest and pursuant to § 215.32(b) of the regulations governing the taking of fur seals for subsistence purposes, discusses the number of seals expected to be taken in 1993 to satisfy the subsistence requirements of the Pribilof Aleuts for St. Paul and St. George Islands. The estimates are given as a range, the lower end of which can be exceeded if NMFS is given notice by the Pribilof Aleuts, and the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determines that the subsistence needs of the Pribilof Aleuts have not been satisfied. Conversely, the harvest can be terminated before the lower range of the estimate is reached if it is determined by NMFS that the subsistence needs of the Pribilof Aleuts have been met or the harvest has been conducted in a wasteful manner.

The subsistence harvest has been regulated to minimize negative effects on the population by limiting the harvest to a 40-day harvest season (June 23–August 8) and by limiting the harvest to subadult male fur seals. The August 8 deadline was chosen to avoid the taking of immature female fur seals, which begin arriving at rookeries and haulouts in early August. Previous regulations at 50 CFR 215.32(f)(2) allowed the Assistant Administrator to extend the harvest beyond August 8 under certain circumstances. However, on June 3, 1991, NMFS proposed to eliminate the extension option and to begin the harvest 1 week earlier (56 FR 25066). That rule was finalized on July 31, 1992 (57 FR 33900). Thus, there will be no extension of the harvest past August 8, 1993, and the harvest can begin on June 23.

#### Summary of Data from the 1992 Harvest Season

As required by 50 CFR 215.32(b), this document summarizes the 1992 harvest and estimates the number of seals needed for subsistence in 1993. Subsistence harvesting of northern fur seals was conducted on St. George Island on 12 days between July 3, 1992, and August 8, 1992, and on St. Paul Island on 27 days between June 30, 1992, and August 7, 1992. A total of 1,482 seals were harvested on St. Paul Island. A total of 194 seals were harvested on St. George Island. A harvest of approximately 100 seals was

scheduled to occur on St. Paul Island on August 8, 1992, the last available date of the 1992 harvest. However, due to a family emergency, the harvest foreman had to leave the island on that date, and the harvest did not occur. Had the harvest occurred on August 8, the total number of seals taken on St. Paul Island during 1992 would likely have increased by approximately 100 individuals.

A review of previous years' subsistence takes (Table 1) indicates that over the last 5 years, the number of fur seals harvested on St. Paul Island has fluctuated from a low of 1,077 (1990) to a high of 1,645 (1991). An average of 1,338 seals (with an upper 95-percent confidence limit (CI) of 1,749) has been taken on St. Paul Island since 1988. The number of seals taken for subsistence purposes on St. George Island per year has ranged from 113 (1988) to 281 (1991) (Table 1). The average number of seals taken on St. George Island per year for subsistence purposes has been 187 seals (upper 95-percent confidence limit of 294).

TABLE 1.—SUBSISTENCE HARVEST LEVELS FOR NORTHERN FUR SEALS ON THE PRIBILOF ISLANDS, 1985–1992.

| | Year | | | | |
|---|---|---|---|---|---|
| | 1988 | 1989 | 1990 | 1991 | 1992 |
| St. Paul | 1,145 | 1,340 | 1,077 | 1,645 | 1,482 |
| St. George | 113 | 181 | 164 | 281 | 194 |
| Total | 1,258 | 1,521 | 1,241 | 1,926 | 1,676 |

**Estimated Number of Fur Seals Needed for Subsistence in 1993**

NMFS is required by its regulations to include in this document an estimate of the fur seal harvest levels for 1993 that will satisfy the subsistence needs of the residents of the Pribilof Islands. The subsistence harvest estimates are intended as estimates of need, not quotas. The annual estimation of the number of seals required to meet the subsistence needs of the Pribilof Aleuts has been inexact when compared to the number of seals actually taken in each harvest, reflecting difficulties inherent in such estimations. NMFS conducted a workshop on November 5, 1991, to discuss, among other issues, a better method for estimating the subsistence needs of the Pribilof Island residents. Discussion at the workshop indicated that a household survey, conducted by the Traditional Council on each island, would be the most appropriate approach to determine the number of fur seals needed during the current year. Participants at the workshop indicated that such a house-to-house survey has been conducted previously by the residents of St. George Island to make this determination. Survey were carried out in 1992, and, in part, were used to estimate the number of seals required to meet the 1992 subsistence needs of the residents of St. George Island (57 FR 22450, May 25, 1992). If any of the households on either St. George or St. Paul Islands cannot be contacted during these mid-winter surveys, then the estimate of need for those households that could not be reached by survey can be determined either by extrapolating subsistence need using (1) the number of seals taken per household in the previous years' harvests, or (2) the average number of seals requested per household contacted during that survey, multiplied by the number of households. Alternatively, NMFS has determined that using the previous year's harvest level as a baseline that can be adjusted, provided that substantiated evidence of increased or decreased subsistence need is presented to NMFS, is an acceptable method for estimating current year needs (56 FR 36735, August 1, 1991).

During 1992, 41 households estimated a subsistence need for 365 seals on St. George Island (57 FR 22450, May 25, 1992). Based in part on these survey results, NMFS estimated a range of 281–500 fur seals needed for subsistence in 1992. One hundred and ninety-four fur seals were actually taken for subsistence purposes (Table 1), 171 fewer seals than estimated by the survey. Since 1986, the lower limit of subsistence need on St. George Island has been reached only in 1990 and 1991. On February 10, 1993, the St. George Traditional Council provided a listing to NMFS indicating that 38 households would require 407 seals for 1993. However, since fewer seals were actually taken in 1992 than estimated, and since the average number taken over the past 5 years has been 187, NMFS concludes that there has not been a demonstrated need for an increase in the number of fur seals taken for subsistence over the levels estimated for 1992. Therefore, NMFS proposes that the 1993 harvest estimate remain at the 1992 levels. If the Aleut residents of St. George Island reach the lower level of estimated need, 281 animals, and still have unmet subsistence needs, they may request an additional number of seals up to a harvest total of 500 (the upper bound estimated for the 1991 and 1992 harvest).

On February 26, 1993, the Tribal Government of St. Paul Island provided the estimate of its 1993 subsistence needs to NMFS. Fifty-four households, approximately one-third of the households on the island, responded to the survey. In contrast, 156 households responded to the 1992 survey, which resulted in a NMFS estimate of 1,645–2000 fur seals needed for subsistence (57 FR 34081, August 3, 1992). The 54 households that responded to the 1993 survey stated that their subsistence need for 1993 would require the taking of 842 fur seals. Since only one-third of the households on St. Paul Island responded to the 1993 survey, it is difficult to determine whether the resulting estimate is an accurate indication of subsistence needs.

Rather than attempting to extrapolate subsistence need on St. Paul Island based on incomplete survey data, and given that there have not been any significant changes in the demographics or economics of the island that would result in a decreased need for fur seal meat, it is reasonable to assume that subsistence need would vary little between 1992 and 1993. During 1992, the lower level of estimated need on St. Paul Island (1,645) was based on the results of the household survey, and the number of animals taken in the 1991 harvest on that island (57 FR 34081, August 3, 1992). At this time, therefore, NMFS proposes that the expected harvest levels for subsistence need on St. Paul Island for 1993 remain at 1992 levels, 1,645–2,000 fur seals. If the residents of St. Paul Island reach the lower limit of the estimated range of animals, and still have unmet

subsistence needs, they may request an additional number of seals, up to the upper level of the subsistence estimate.

Based on the low response by St. Paul residents to the 1993 survey, it may be interpreted that only a small percentage of the residents of St. Paul Island are interested in the fur seal harvest, and that the estimate of subsistence need may need to be reduced in future harvests from levels set for previous years.

NMFS biologists will continue to monitor the entire harvest on St. Paul Island during 1993 to ensure that the harvest is carried out in a manner that fully complies with the regulations specified at 50 CFR 215.32, and to determine whether subsistence need on St. Paul Island is declining from levels of previous years. However, at this time, NMFS believes that the actual number of seals needed for subsistence likely falls at, or below, the upper 95-percent CI for the average number of seals killed in the harvests during the past 5 years. The upper 95-percent CI value is within the range of the 1993 subsistence estimates (upper and lower values) for each of the islands. NMFS believes, therefore, that 1993 subsistence estimates, based on 1992 data, are reflective of present subsistence need.

**List of Subjects in 50 CFR Part 215**

Administrative practice and procedure, Marine mammals, Penalties, Pribilof Islands, Reporting and recordkeeping requirements.

**Nancy Foster,**

*Acting Assistant Administrator for Fisheries.*

[FR Doc. 93–13934 Filed 6–9–93; 12:42 pm]

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**50 CFR Part 285**

**[Docket No. 930488–3088; ID #032293A]**

**RIN 0648–AE83**

## Atlantic Tuna Fisheries

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Proposed rule.

**SUMMARY:** The Secretary of Commerce (Secretary) issues this proposed rule governing the Atlantic tuna fisheries to: (1) Require Atlantic bluefin tuna (ABT) dealers to submit daily reports via FAX and replace the weekly report with a revised bi-weekly report; (2) require permits for vessels fishing in the Angling category; (3) require at-sea observer coverage on vessels taking Atlantic tunas, if so requested by NMFS; (4) allow only authorized gear in the Atlantic tuna fisheries except when exempted as experimental; (5) allow the Assistant Administrator to make inseason transfers of potentially underharvested quota between fishing categories; (6) raise the amount of General category set-aside for the late season fishery from 40 metric tons (mt) to 100 mt; (7) allow for inseason adjustments to the Angling category bag and boat limits for private, party and charter boats; and (8) make other technical changes to enhance administration, management and enforcement.

This action is necessary to improve management and monitoring of the U.S. Atlantic tuna fisheries, to conform more closely to the 1991 International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations, and to enhance collection of data to improve the assessment of the environmental, economic, and social impacts of the fisheries.

**DATES:** Comments on this proposed rule must be received on or before July 8, 1993.

**ADDRESSES:** Comments on the proposed rule should be sent to, and copies of the Draft Background Document/ Environmental Assessment/Regulatory Impact Review, are available from, Richard H. Schaefer, Director, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service (NMFS), 1335 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Stone, 301–713–2347.

**SUPPLEMENTARY INFORMATION:** The Atlantic tuna fisheries are managed under the implementing regulations at 50 CFR part 285 under the authority of the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* The ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations as may be necessary to carry out the recommendations of ICCAT. The authority to implement the ICCAT recommendations is delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (Assistant Administrator).

### Purpose of Current Action

The proposed actions for the 1993 fishing season are limited in scope. They are intended to meet existing obligations to implement ICCAT recommendations and to improve the efficiency of the domestic fishery management program.

Pursuant to the 1991 ICCAT recommendations and the implementing regulations at 50 CFR part 285, action is currently needed to adjust management measures for the 1993 fishery to improve monitoring of bluefin catch to ensure that the ICCAT-recommended biannual quota of 2,496 mt is not exceeded. In addition, the proposed measures would enhance NMFS' ability to meet the stated management objectives for the domestic fishery: provide data to monitor the stock, minimize economic displacement, maximize the use of the resource, and spread fishing opportunity among as many users as possible. Also, pursuant to the 1992 ICCAT Standing Committee on Research and Statistics (SCRS) reports concerning status of bigeye/ yellowfin tuna stocks, NMFS proposes to implement experimental fisheries provisions for new gear in the Atlantic tuna fisheries to investigate and assess the environmental, economic and social effects of new gear, to enable NMFS to make future management decisions. Finally, a number of technical corrections are needed to clarify the language of existing regulations and to enhance enforcement.

### Proposed Management Measures

Proposed changes would improve NMFS' ability to implement the ICCAT recommendations and would further the management objectives for the domestic tuna fisheries.

*Daily Reports by FAX, Revised Bi-weekly Report, and Permit Fee*

NMFS is proposing to require ABT dealers to submit daily reports by FAX, as well as by mail. This was suggested during the 1992 fishing season by fishermen and dealers to give NMFS better information for quota monitoring and to allow NMFS to make decisions on seasonal closures or adjustments on a real-time basis. It also was suggested during scoping meetings for this rulemaking. In addition, the weekly dealer report is proposed to be revised and replaced with a bi-weekly report to enhance the usefulness of information collected. The Regional Director would be authorized to collect fees to recover the administrative costs of issuing dealer permits. The amount of the fee would be calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. As an interim measure, no fee is proposed for dealer permit applications processed in 1993. Dealer permit requests processed after 1993 would be assessed the full administrative cost approved annually by the NOAA Comptroller.

*Angling Category Permits*

NMFS received many comments recommending permitting for all vessels in the bluefin tuna fishery. NMFS agrees with these comments and believes that, to monitor the catch in the Angling category, it is essential to have an accurate count of the universe of angling vessels. Currently, to extrapolate catch per unit of effort estimates to total catch, it is necessary to use an estimate of the total number of vessels in the fishery. With Angling category vessel permits, the catch estimation procedure will be much more timely and accurate. This will help to resolve questions concerning past estimates of catch in the Angling category and will increase confidence in future estimates. Given limited agency resources and the potentially large number of privately owned Angling category vessels, it is proposed that permits be issued first to party and charter vessels in 1993 and to private vessels in 1994.

A vessel owner applying for an Atlantic bluefin tuna permit would be required to submit a completed permit application signed by the owner or agent on an appropriate form obtained from the Regional Director. It would be required that the application be submitted to the Regional Director at least 30 days before the date on which the applicant desires to have the permit made effective. Valid permits would be required of party and charter vessels beginning July 1, 1993. Private vessel permits would be required beginning January 1, 1994.

The Regional Director would be authorized to collect fees to recover the administrative costs of issuing Angling category permits. The amount of the fee would be calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. As an interim measure, the fee would be $20.00 for permit applications processed in 1993, a level equal to that charged for other categories of Atlantic bluefin tuna permits. Angler permit requests processed after 1993 would be assessed the full administrative cost approved annually by the NOAA Comptroller.

In past years, there has not been a clear distinction between commercial and recreational users of the bluefin tuna resource, especially with regard to General category permit holders. In permitting the Angling category, NMFS recognizes a distinct category of recreational users. Therefore, NMFS proposes to designate holders of General category permits as commercial users. Vessels holding a General category permit would be classified as commercial vessels, which are subject to Coast Guard regulations pertaining to safety equipment requirements. Additionally, as commercial users, the names and addresses of General category permit holders would be subject to release under Freedom of Information Act (FOIA) requests. Those fishermen who do not want to fish for bluefin tuna commercially, but who want to retain a trophy fish (one large medium or giant bluefin annually) taken incidental to fishing under the regulations applicable to the Angling category, may apply for an Incidental Catch (Rod and Reel) category permit.

*Mandatory Observer Coverage*

Observer coverage is often the most efficient and effective means of scientifically validating catch, bycatch and discard data, and to collect biological samples. Mandatory observer coverage would improve collection of the scientific data necessary for management decisions affecting the Atlantic tuna fisheries. This rule change would establish the authority for NMFS to require observers for any category of vessel that is fishing for, or incidentally catching, Atlantic tunas at any time. Owners of vessels selected for observer coverage would be required to notify NMFS prior to the vessel's departure on a fishing trip. Notification procedures would be specified in the selection notice to the vessel owner. If, after notification, NMFS decides to place an observer on board for that fishing trip, the vessel owner would be instructed to wait at the dock until an observer arrives.

*Prohibit Unauthorized Gear in the Atlantic Tuna Fisheries*

NMFS has received numerous comments concerning the harvest of Atlantic tunas and other species by certain types of gear, including pair-trawl gear and other potential new types of fishing gear. In addition, NMFS has received a petition for rulemaking from the Center For Marine Conservation (refer to 58 FR 21967, April 26, 1993) concerning the unrestricted use of pair trawls and other new types of gear in fisheries when the effects of these gear types on protected resources are not known. Because of the overfished or fully exploited status of the Atlantic tuna stocks and the need for additional data before determinations can be made whether to allow new gear into a directed fishery, establish a bycatch quota for the new gear, establish safeguards to reduce interaction with protected species, or make other management decisions concerning the gear, NMFS proposes to designate only certain types of fishing gear as authorized for use in the Atlantic tuna fisheries and to prohibit the use of unauthorized gear.

Specifically, NMFS proposes that fishing for Atlantic tuna, with the exception of Atlantic bluefin tuna, be authorized only with handlines, rod and reel, harpoon, purse seine, longline, and drift gillnet. Authorized gear for Atlantic bluefin tuna is any gear type allocated a quota under the categories designated for directed or incidental fishing. Authorization of a gear type at any point does not establish a permanent authorized status for that gear in the Atlantic tuna fisheries. NMFS may collect information from selected vessels using authorized gear to evaluate the effects of the gear on the tuna resources and the environment. Given new information, NMFS would re-evaluate the status of any authorized gear.

It is proposed that vessels with unauthorized gear on board may not fish for, retain, or possess Atlantic tunas unless authorized under specific conditions of incidental catch. However, to obtain necessary information, NMFS proposes to allow exemptions for certain gear types under conditions of limited experimental fisheries. Exemptions may be granted to vessels employing selected gear to allow scientific assessment of the gear and to develop a data base for future decisions on managing these gear types.

Fishermen wishing to employ gear not authorized to take Atlantic tunas, either as a directed fishery, or as an incidental fishery, could submit a request to the Director of the Office of Fisheries Conservation and Management (Director) for an experimental fishing exemption. The Director may authorize, for limited experimental purposes, the directed or incidental harvest of tunas that would be otherwise prohibited. Experimental fishing may not be conducted unless authorized by an exemption issued by the Director to the participating vessel(s) in accordance with the criteria and procedures specified in the exemption letter of authorization.

Applicants for experimental fishing exemptions would be assessed a fee calculated to recover the administrative costs of issuing the exemption. The amount of the fee would be calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. As an interim measure, the fee for exemption requests processed in 1993 would be set at

$20.00, a level equal to that charged Atlantic bluefin tuna permit holders. Exemption requests processed after 1993 would be assessed the full administrative cost approved annually by the NOAA Comptroller.

*Authority To Allocate Underharvest Between Fishing Categories*

The implementing regulations at 50 CFR 285.22(h) provide for adjustments to 1993 quotas when fishing categories take more or less than their authorized quotas in 1992. Specifically, if the Assistant Administrator determines, based on landing statistics and other available information, that a 1992 quota in any category, or as appropriate, subcategory, has been exceeded or has not been reached, the Assistant Administrator must subtract the overharvested amount from, or add the underharvested amount to, that quota for 1993.

Large amounts of underharvested quota in any fishing category at the end of the fishing year, if used to increase quota for that category in the following year, may result in excessive allocations and continuing underharvest of quota if the particular gear segment is in fact unable to harvest the additional amount. Allocation of additional quota to a particular category that cannot make use of that amount is inconsistent with the stated management objective of maximizing use of the available quota while sharing the opportunity to fish among as many users as possible. Additionally, ATCA requires that NMFS provide a reasonable opportunity for domestic fishermen to harvest any quota allocated to the United States under an international agreement.

Under the regulations at 50 CFR 285.22(f), the Assistant Administrator has the authority to allocate any portion of the reserve amount to any fishing category as an inseason adjustment after considering the following factors: (1) The usefulness of information obtained from catches of the particular category of the fishery for biological sampling and monitoring the status of the stock; (2) the catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made; (3) the projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season; and (4) the estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

NMFS proposes to amend the regulations at 50 CFR 285.22 to provide authority for the Assistant Administrator to make adjustments to quotas by transfers of quotas between fishing categories if, during any year of a single-year quota period, or the second year of a biannual quota period as defined by ICCAT, the Assistant Administrator determines, based on landing statistics, present year catch rates, and other available information, that any category or, as appropriate, subcategory, is not likely to take its entire quota as previously allocated for that year. Given that determination, the Assistant Administrator may transfer, inseason, any portion of the quota of any fishing category to any other fishing category or to the reserve after considering the four factors indicated at § 285.22(f) and the likelihood that any transfers between categories will not result in the total single-year quota or the total 2-year quota being exceeded. The Assistant Administrator will file a notification of transfer of any inseason adjustment amount with the Office of the Federal Register before the date such transfer is to become effective .

Allowing the Assistant Administrator to make inseason transfers of unharvested quota between categories provides the flexibility needed to collect data necessary for monitoring the status of the stock, minimize economic displacement, and maximize use of the available resource.

*Set-aside for the Late Season General Category Fishery*

Written and oral comments have been received recommending various methods to provide a late-season fishery to allow maximum fishing opportunity for all geographic areas and to allow fishermen to take advantage of the higher prices potentially received in late summer/early fall in areas where this fishery has been traditional. Along with recommendations for delaying the opening of the season to accomplish this, NMFS has received recommendations for reserving each year 100 mt of the General category quota until September 15. NMFS agrees that this would help ensure that a portion of the annual quota would remain for traditional late-season fisheries. NMFS believes this late-season set-aside has merit from a scientific standpoint (e.g., continuing the collection of data on large ABT through September, and potentially in October) and could have positive economic impacts due to the higher prices usually received from ABT in late summer and early fall.

*Angling Category In-season Adjustments*

Differential bag limits were implemented in 1992 in the Angling category for ABT less than 115 cm (45 inches) in an effort to ensure that the Angling category fishery stay open as long as possible. All vessels (including charter and party boats), except purse seiners, are limited to one medium ABT per day. Private boats are allowed only two school ABT per trip, while anglers on charter and party boats are allowed one school ABT per angler per trip (day).

Additionally, the Assistant Administrator is provided the authority to adjust the bag limits for anglers fishing from charter or party vessels from one school ABT per angler per trip (day) to two school ABT per angler per trip. Comments have been received recommending that the private boat sector be treated in a similar manner, in terms of the bag limits, as the charter/party boat sector. In addition, public comment has indicated to NMFS that closures can adversely impact the recreational sector to a greater degree than lower bag or boat limits. NMFS believes the data collected during 1992 provide adequate justification for allowing the Assistant Administrator the flexibility to adjust the private boat catch from two school ABT per boat to one per angler or two per angler per trip, as in the charter/partyboat sector, and to adjust the charter/party boat sector to as few as two fish per vessel, as in the private boat sector, if necessary to avoid a closure. Such flexibility would provide more options for the private boat fishery and could help to reduce the likelihood of closures in the recreational sector if charter boat catch rates become excessive.

*Technical Changes to the Regulations*

A number of technical changes are proposed to clarify the language or to enhance enforcement of the existing regulations. These clarifications will facilitate a consistent interpretation of the regulations. The proposed changes will:

1. Clarify the dividing line between the northern and southern regions for management of the Angling category quota;

2. Clarify the meaning of "authorized officer", "postmarking", and "delegated authority";

3. Clarify the prohibitions and authorized activities for incidental take of ABT;

4. Clarify which categories of permit may be held concurrently;

5. Clarify that ABT may not be possessed or landed in areas otherwise closed to fishing;

6. Clarify non-transferability of vessel permits;

7. Clarify references to certain size classes of ABT;

8. Correct misspellings and incorrect cross-references;

9. Eliminate redundant sections; and

10. Clarify permit application information requirements.

These changes will not affect the conduct of the tuna fisheries except to close "loopholes" and facilitate enforcement. Without such changes, the fisheries cannot be monitored or enforced with maximum effectiveness.

In addition, NMFS has received comment that a correction to the regulatory text is needed to clarify the prohibition on landing Atlantic tuna in a form other than round (fins intact) or other than with the head removed and eviscerated. NMFS requests additional comment on the need for flexibility in the regulations governing at-sea processing of all species of Atlantic tuna, as applied to both the commercial and recreational fisheries.

### Classification

This proposed rule is published under the authority of the ATCA, 16 U.S.C. 971 *et seq.* The Assistant Administrator has preliminarily determined that this proposed rule is necessary to implement the recommendations of ICCAT and is necessary for management of the Atlantic tuna fisheries.

An environmental assessment (EA) of the proposed measures was prepared by NMFS and is available for public review (see **ADDRESSES**).

The Assistant Administrator has determined, based on the Regulatory Impact Review (RIR) prepared for this rule, that this is not a "major" rule requiring a Regulatory Impact Analysis under E.O. 12291. The proposed action will not have a cumulative effect on the economy of $100 million or more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse effects on competition, employment, investment, productivity, innovation, or competitiveness of U.S.-based enterprises are anticipated. The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because less than 20 percent of the entities are affected by the rule. A copy of the RIR may be obtained from NMFS (see **ADDRESSES**).

The Assistant Administrator has determined that this proposed rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of the Atlantic, Gulf of Mexico, and Caribbean states that have approved coastal zone management programs. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This proposed rule contains several new collection-of-information requirements subject to review under the Paperwork Reduction Act and revises and continues requirements that were approved by the Office of Management and Budget (OMB) under OMB control numbers 0648–0202 and 0648–0239. The continuing requirements are revised because changes in the information requested on permit applications and on dealer reports involved changing or deleting several words in the existing regulatory text. The public reporting burden for permit application collections of information is estimated to remain unchanged at an average 30 minutes per response for a new vessel permit application and 15 minutes per response for a vessel permit renewal. The revised public reporting burden for collections of information on dealer reports are estimated at 2.5 minutes per response for daily dealer reports, and 33 minutes per response for bi-weekly dealer reports. The burden for inspection notification for purse seine vessels remains unchanged at 5 minutes. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

New collection-of-information requirements are associated with requests for permitting the Angling category, experimental fishing exemptions, and mandatory observer coverage. The public reporting burden for Angling category permits is expected to average 30 minutes for a new application and 10 minutes for a renewal (in the case that a vessel owner would be applying for an Angling category permit in addition to renewing a current General category permit). The public reporting burden for an experimental fishing exemption is expected to average 1 hour to apply for an exemption, and 2 hours per report on exempted fishing activities. The public reporting burden for vessel owners selected for observer coverage is estimated to average 1 hour per observed fishing trip. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspects of these collections of information, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attention NOAA Desk Officer).

NMFS has consulted under section 7 of the Endangered Species Act concerning the potential impact of this fishery and of the proposed management measures on endangered and threatened species. It has been determined that no new information is available that would provide a basis for altering the conclusions of the Biological Opinion issued on July 5, 1989. Thus, the fishery and these proposed actions are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS.

This proposed rule does not contain policies with federalism implications sufficient to warrent preparation of a federalism assessment under E.O. 12612.

### List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 8, 1993.

**Samuel W. McKeen,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set forth in the preamble, 50 CFR part 285 is proposed to be amended as follows:

## PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for part 285 continues to read as follows:

**Authority:** 16 U.S.C. 971 *et seq.*

2. In § 285.2, new definitions for "drift gillnet" and "postmark" are added in alphabetical order and the definitions of "authorized officer" and "Secretary" are revised to read as follows:

**§ 285.2 Definitions.**

* * * * *

*Authorized officer* means:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard; or any U.S. Coast Guard personnel accompanying and acting under the direction of a commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any special agent or fisheries enforcement officer of NMFS; or

(3) Any person designated by the head of any Federal or state agency that has

entered into an agreement with the Secretary or the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act.

* * * * *

*Drift gillnet*, sometimes called a drift entanglement net or drift net, means a flat net, unattached to the ocean bottom, whether or not attached to a vessel, designed to be suspended vertically in the water to entangle the head or other body parts of fish that attempt to pass through the meshes.

* * * * *

*Postmark* means independently verifiable evidence of date of mailing, such as U.S. Postal Service postmark, United Parcel Service (U.P.S.) or other private carrier postmark, certified mail receipt, overnight mail receipt or a receipt issued upon hand delivery to an authorized representative of NMFS.

* * * * *

*Secretary* means the Secretary of Commerce, or a designee.

* * * * *

3. Section 285.3 is amended by revising the introductory phrase and adding paragraphs (i) through (n) to read as follows:

**§ 285.3 Prohibitions.**

It is unlawful:

* * * * *

(i) For any person or vessel subject to the jurisdiction of the United States to fish for, catch or retain any species of Atlantic tuna with gear that is not authorized under § 285.9, unless authorized under § 285.7.

(j) For any person or vessel subject to the jurisdiction of the United States to possess any Atlantic tuna on board a vessel that has gear on board that is not authorized under § 285.9, unless authorized under § 285.7.

(k) For any person to assault, resist, oppose, impede, intimidate, interfere with, obstruct, delay or prevent any authorized officer in the conduct of any search, inspection, seizure or lawful investigation made in connection with enforcement of this part.

(l) For any person to assault, resist, oppose, impede, harass, intimidate, or interfere with a NMFS-approved observer aboard a vessel.

(m) Interfere with or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an at-sea observer conducting his or her duties aboard a vessel.

(n) Fail to provide an observer with the required food, accommodations, access, and assistance, as specified in § 285.8(c).

4. Sections 285.7 through 285.9 are added to subpart A to read as follows:

**§ 285.7 Experimental fishing exemption.**

(a) Upon a written request received at least 30 days before the desired effective date, the Director may exempt any person or vessel from the requirements of this part for the conduct of experimental fishing to gather data needed to make management decisions for the Atlantic tuna resources or fisheries.

(b) A request for an exemption must be in writing and received by the Director at least thirty (30) days before the desired effective date. The request must specify any vessel(s) involved, describe the gear to be used, the manner in which the gear will be fished, the duration of the activity, the area where the activity will be conducted, the species of tuna that will be caught, the anticipated bycatch, the port(s) involved and the disposition of the catch, both domestic and foreign. The request must include any fee specified by the Director pursuant to § 285.7(e).

(c) The Director may not grant such exemption unless it is determined that the purpose, design, and administration of the experimental fishing is consistent with the objectives of the management program, ICCAT recommendations, the provisions of the Atlantic Tunas Convention Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the Atlantic tunas resources and fisheries; or

(2) Create significant enforcement problems.

(d) Each vessel participating in any experimental fishing activity is subject to all provisions of this part except those clearly inconsistent with the exemption granted that activity by the Director. The conditions and duration of the experimental fishing will be specified in a letter issued by the Director to each vessel or person participating in the exempted activity. This letter must be carried aboard the vessel conducting the exempted activity. Any exemption authorization that has been altered, erased, or mutilated is invalid. A letter of exemption issued under this part is not transferable or assignable.

(e) The Director may charge a fee to recover the administrative expenses of issuing a letter of exemption. The amount of the fee will be calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The fee may not exceed such costs. Persons seeking an exemption may contact the Director at (301) 713–2334 to find out the applicable fee. Failure to pay the fee will preclude issuance of the exemption. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any letter of exemption.

**§ 285.5 At-sea observer coverage.**

(a) Notwithstanding the placement of on-board fishery observers under the authority of any other Federal statute, NMFS may require observers for any category of vessel engaged in directed fishing for, or incidentally taking, Atlantic tunas at any time.

(b) Owners of vessels selected for observer coverage will be required to notify the appropriate Regional or Center Director before commencing any fishing trip that may result in the harvest of any Atlantic tuna. Notification procedures will be specified in selection letters to vessel owners.

(c) An owner or operator of a vessel on which a NMFS-approved observer is embarked must—

(1) Provide accommodations and food that are equivalent to those provided to the crew;

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties;

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position;

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish; and

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish for that trip.

**§ 285.9 Authorized gear.**

(a) Authorized fishing gear for Atlantic tuna, with the exception of Atlantic bluefin tuna, is the following: Handline, rod and reel, harpoon, purse seine, longline, and drift gillnet.

(b) Authorized gear for Atlantic bluefin tuna is any gear appropriate to the categories allocated a quota under subpart B of this part.

5. In § 285.21, paragraphs (a), (b), (c), (e), (g), (h), (k) and (l) and the OMB control number at the end of the section are revised and paragraph (m) is added to read as follows:

**§ 285.21 Vessel permits.**

(a) *Permit requirements.* Each vessel that fishes for or takes Atlantic bluefin tuna must have on board a valid permit issued under this section. Party and charter vessels fishing in the Angling category; must have on board a valid permit by July 1, 1993. Private vessels fishing in the Angling category must have a valid permit on board by January 1, 1994.

(b) *Categories of permits.* Except as allowed under paragraph (m) of this section, the Regional Director will issue a permit to each vessel for only one of the following categories: General (handgear), Angling, Harpoon Boat, Purse Seine, or Incidental Catch. A permitted vessel is entitled to fish for Atlantic bluefin tuna only under the quota for the category in which it is permitted, and must use gear appropriate to that category. The Regional Director will issue permits to catch and retain Atlantic bluefin tuna under § 285.22(c) only to current owners of those purse seine vessels, or their replacements, that were granted allocations under this subpart and landed Atlantic bluefin tuna in the fishery for Atlantic bluefin tuna during the period 1980 through 1982. The Regional Director will not issue a permit to take Atlantic bluefin tuna under this subpart to any vessel that was replaced with another vessel and retired from the purse seine fishery during the period 1980 through 1982, unless that vessel is replacing another vessel being retired from the fishery.

(c) *Application procedure.* Permits issued under this section must be renewed annually. A vessel owner applying for an Atlantic bluefin tuna permit under this section must submit a completed permit application signed by the owner or agent on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days before the date on which the applicant desires to have the permit made effective. The application must include the name, address and telephone number of the vessel owner(s) (for each owner that owns more than a 25 percent interest in the vessel); the name of the vessel; the port where the vessel is docked; the official state registration or U.S. Coast Guard documentation number; the gross tonnage, if known; the length of the vessel; the engine horsepower; the year the vessel was built; the type of vessel construction; the type of vessel propulsion; the vessel's fish hold capacity; the type(s) of fishing gear used; the normal crew size; number of party or charter passengers licensed to carry (if applicable); and the category of the permit. In addition, if applicable, applicants must include a copy of the official state registration or U.S. Coast Guard documentation, party/charter boat license, and, if a boat is owned by a corporation or partnership, the corporate or partnership documents (copy of Certificate of Incorporation and Articles of Association or Incorporation, including the names and addresses of all shareholders owning 25 percent or more of the corporation's shares). Except for purse seine vessels, an owner may change the category of the vessel's permit by notifying the Regional Director in writing before May 15. After May 15, the vessel's permit category may not be changed for the remainder of the calendar year, regardless of any change in the vessel's ownership, unless the vessel never had recorded landings of Atlantic bluefin tuna, or unless there is sufficient evidence for the Regional Director to determine that an error involving contradictory information was made on the application.

* * * * *

(e) *Duration.* A permit issued under this section remains valid until it is suspended or revoked, or it expires. A permit issued under this section expires when the name of the owner or vessel changes, or upon the renewal date specified on the permit by the Regional Director.

* * * * *

(g) *Replacement.* The Regional Director may issue replacement permits when requested in writing by the owner or authorized representative, stating the need for replacement, the name of the vessel, and the fishing permit number assigned. An application for a replacement permit will not be considered a new application. An appropriate fee, consistent with paragraph (k) of this section, may be charged for issuance of the replacement permit.

(h) *Transfer.* A permit issued under this section, except in the case of purse seine permits as allowed under paragraph (b) of this section, is not transferable or assignable to another vessel or owner; it is valid only for the vessel and owner to which it is issued.

* * * * *

(k) *Fees.* The Regional Director may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any permit.

(l) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the vessel owner must report the change in writing to the Regional Director. The permit is void if any change in the information is not reported within 15 days.

(m) *Multiple categories.* The following combinations of vessel permits, and fishing activity subject to the provisions governing these categories, are allowed to exist simultaneously aboard a single vessel, although individual fish taken under any permit category remain subject to the provisions of the regulations applicable to that category:

(1) Angling and General category; and

(2) Angling and Incidental Catch (Rod and Reel) category.

(Approved by the Office of Management and Budget under OMB control number 0648–0202)

6. Section 285.22 is amended by revising the introductory text and paragraphs (a) through (e) and adding paragraph (i) to read as follows:

**§ 285.22 Quotas.**

The total annual (January 1–December 31) amount of Atlantic bluefin tuna that may be caught, retained, possessed or landed by persons and vessels subject to U.S. jurisdiction in the regulatory area is subdivided as follows:

(a) *General.* The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels permitted in the General category under § 285.21(b) is 531 mt, of which 100 mt is set aside for a late-season fishery beginning September 15. On the basis of the statistics referenced at § 285.20(b)(1), the Assistant Administrator will project a date when the catch of Atlantic bluefin tuna will equal the annual quota minus 100 mt, and will publish a notification in the **Federal Register** stating that fishing for, retaining, possessing or landing Atlantic bluefin tuna under the early-season quota must cease on that date at a specified hour, and not recommence until September 15, whereupon a quota equal to the difference between the annual quota and the estimated catch prior to September 15 will become available. If the Assistant Administrator determines (based on dealer reports, availability of

large medium or giant Atlantic bluefin tuna on the fishing grounds, and any other relevant information) that variations in seasonal distribution, abundance, or migration patterns of Atlantic bluefin tuna, and the catch rate, may prevent fishermen in an identified area from harvesting their share of the quota, the Assistant Administrator may set aside an allocation of the late-season quota for such area. The amount of any allocation will not exceed the greater of 20 mt or the maximum reported landings in the identified area in any of the preceding 3 years. The Assistant Administrator will publish notification of any set-aside allocation and its basis in the Federal Register. The daily catch limit for the identified area will be set at one large medium or giant Atlantic bluefin tuna per day per vessel.

(b) *Harpoon boat.* The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels permitted in the Harpoon Boat category under § 285.21(b) is 53 mt.

(c) *Purse seine.* The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 301 mt.

(d) *Angling.* The total annual amount of school, large school, and small medium Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by anglers is 219 mt. No more than 100 mt of this quota may be school Atlantic bluefin tuna. This quota is further subdivided as follows:

(1) 47 mt of school Atlantic bluefin tuna may be caught, retained, possessed or landed south of 38°47′ N. latitude.

(2) 53 mt of school Atlantic bluefin tuna may be caught, retained, possessed or landed north of 38°47′ N. latitude.

(e) *Incidental.* The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels permitted in the Incidental Catch category under § 285.21(b) is 226 mt for the 2-year period 1992–1993. This quota is further subdivided as follows:

(1) In 1992, 132 mt for longline vessels. No more than 104 mt may be caught, retained, possessed or landed in the area south of 36°00′ N. latitude.

(2) In years after 1992, 85 mt for longline vessels. No more than 67 mt may be caught, retained, possessed or landed in the area south of 36°00′ N. latitude.

(3) For vessels fishing for species of fish other than tuna with gear other than rod and reel, and vessels fishing with rod and reel under the regulations pertaining to the Angling category, 5 mt in 1992 and 4 mt in years after 1992 may be caught, retained, possessed or landed in the regulatory area.

* * * * *

(i) *Transfers between categories.* The Assistant Administrator is authorized to make adjustments to quotas involving transfers between vessel categories or, as appropriate, subcategories if, during any year of a single year quota period or the second year of a biannual quota period as defined by ICCAT, the Assistant Administrator determines, based on landing statistics, present year catch rates, and other available information, that any category, or as appropriate, subcategory, is not likely to take its entire quota as previously allocated for that year. Given that determination, the Assistant Administrator may transfer inseason any portion of the quota of any fishing category to any other fishing category or to the reserve after considering the four factors indicated in paragraphs (f) (1) through (4) of this section, and the likelihood that any transfers between categories will not result in the total single-year quota or the total 2-year quota being exceeded. The Assistant Administrator will file a notification of transfer of any inseason adjustment amount with the Office of the Federal Register before such transfer is to become effective.

7. Section 285.23 is amended by revising paragraphs (c)(1) and (c)(2) and removing paragraph (f) to read as follows:

**§ 285.23 Incidental catch.**

(c) * * *

(1) One fish per vessel per fishing trip landed south of 36°00′ N. latitude, provided that at least 2,500 pounds (1,134 kg), either dressed or round weight, of species other than Atlantic bluefin tuna are legally caught, retained, and offloaded from the same trip and are recorded on the dealer weighout as sold; and

(2) Two percent by weight, either dressed or round weight, of all other fish legally landed, offloaded and documented on the dealer weighout as sold at the end of each fishing trip, north of 36°00′ N. latitude.

* * * * *

8. Section 285.24 is amended by revising paragraphs (d)(2)(ii) and (d)(3) to read as follows:

**§ 285.24 Catch limits.**

* * * * *

(d) * * *

(2) * * *

(ii) The Assistant Administrator may change the per angler limit to a per boat limit or a per boat limit to a per angler limit, and may increase the bag limit for school bluefin tuna for anglers on party and charter boats from one to two, and may reduce it from two to one, based on a review of daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum utilization of the quota over the longest possible period of time. The Assistant Administrator will publish a notification in the Federal Register of any adjustment in the bag limit made under this paragraph (d)(2)(ii).

(3) *Private boats*—(i) Private boat anglers may catch, retain, possess or land each day the bag limit for anglers specified in paragraph (d)(1) of this section for the number of anglers on board; provided, however, that no more than one small medium and two school bluefin tuna may be retained each day, regardless of the number of anglers on board.

(ii) The Assistant Administrator may change the per angler limit to a per boat limit or a per boat limit to a per angler limit, and may increase the bag limit for school bluefin tuna for anglers on private boats from one to two per angler, and may reduce it from two to one per angler, based on a review of daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum utilization of the quota over the longest possible period of time. The Assistant Administrator will publish a notification in the Federal Register of any adjustment in the bag limit made under this paragraph (d)(3)(ii).

9. Section 285.25 is amended by revising paragraph (c) to read as follows:

**§ 285.25 Purse seine vessel requirements.**

* * * * *

(c) *Inspection.* Any owner of a purse seine vessel with a permit issued under § 285.21(b) must request an inspection of the vessel and fishing gear by an enforcement agent of NMFS before commencing any fishing trip that may result in the harvest of any regulated species and before offloading any Atlantic bluefin tuna. The vessel owner must request such inspection at least 24 hours before commencement of a fishing trip and offloading by calling 508–563–5721 or 508–281–9261. Purse seine vessel owners must have each large medium and giant bluefin tuna in their catch weighed (round weight), measured, and the information recorded on the appropriate forms at the time of

offloading and prior to transporting said tuna from the area of offloading.

* * * * *

10. Section 285.26 is amended by revising the entry for line two in the body of the table to read as follows:

**§ 285.26 Size classes.**

* * * * *

| Size class | Total fork length | Pectoral fin fork length | Approx. round weight |
|---|---|---|---|
| * * * | * | * * | * |
| School | 26 to <45 in | 19 to <33 in | 14 to <66 lbs. |
| * * * | * | * * | * |

11. Section 285.28 is amended by revising paragraphs (b) and (j) to read as follows:

**§ 285.28 Dealer permits.**

* * * * *

(b) *Application.* An applicant must apply for a dealer permit in writing on an appropriate form obtained from the Regional Director. The application must be signed by the applicant, and be submitted to the Regional Director at least 30 days before the date upon which the applicant desires the permit to be effective. The application must contain the following information: Company name; principal place of business; owner or owners' names; applicant's name (if different from owner or owners) and mailing address and telephone number; and any other information required by the Regional Director.

* * * * *

(j) *Fees.* The Regional Director may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any permit.

* * * * *

12. Section 285.29 is amended by revising paragraphs (a), (b) and (d) to read as follows:

**§ 285.29 Dealer recordkeeping and reporting.**

* * * * *

(a) Must submit to the Regional Director via both electronic facsimile (FAX) and the postal system a daily report on a reporting card provided by NMFS, within 24 hours of the purchase or receipt of each Atlantic bluefin tuna from the person or vessel that harvested the fish. A FAX of said card must be received at the NMFS NE Regional Office (FAX 508–281–9135) within 24 hours of the purchase or receipt of each Atlantic bluefin tuna. Additionally, said card must be postmarked and mailed within 24 hours of the purchase or receipt of each Atlantic bluefin tuna. Each reporting card must be signed by the vessel permit holder or vessel operator to verify the name of the vessel that landed the fish and must show the Atlantic bluefin tuna vessel permit number, metal tag number affixed to the fish by the dealer or assigned by an authorized officer, the date landed, the port where landed, the round or dressed weight, the fork length, gear used, and area where the fish was caught.

(b) Must submit to the Regional Director a bi-weekly report on forms supplied by NMFS.

(1) Said report must be postmarked and mailed within 10 days after the end of each 2-week reporting period week in which Atlantic bluefin tuna were purchased, received, or imported. Each report must specify accurately and completely for each tuna purchased: Date of landing or import; vessel ABT permit number (if appropriate); metal tail tag number; weight in pounds or kilograms (specify if round or dressed); nature of the sale (dockside or consignment); price per pound or kilogram (round or dressed weight); quality rating (A, B or C) for four attributes (freshness, fat, color and shape); and destination of the fish (domestic or export).

(2) At the top of each form, the dealer must indicate the company name, license number, and the name of the person filling out the report. In addition, the beginning and ending dates of the 2-week period must be specified by the dealer and noted at the top of the form.

* * * * *

(d) Must retain at his/her place of business a copy of each daily report (including proof of FAX transmission) and a copy of each bi-weekly report for a period of 2 years from the date on which each was submitted to the Regional Director.

* * * * *

13. Section 285.30 is amended by revising paragraph (c)(2) to read as follows:

**§ 285.30 Metal tags.**

* * * * *

(c) * * *

(2) Any person who catches a large medium or giant Atlantic bluefin tuna and does not transfer it to a permitted dealer must contact the nearest NMFS enforcement office at the time of landing said Atlantic bluefin tuna and make the tuna available so that a NMFS enforcement agent may inspect the fish and attach a metal tag to it. The offices to contact are: Portland, ME (207–780–3241); Otis Air Force Base, MA (508–563–5721); Brielle, NJ (201–528–3315); Atlantic Beach, NC (919–247–4549); Brunswick, GA (912–265–0108); Miami, FL (305–361–4224); St. Thomas, U.S. Virgin Islands (809–774–5226); San Juan, Puerto Rico (809–782–8686); St. Petersburg, FL (813–893–3145); St. Joe, FL (904–227–1879); or Corpus Christi, TX (512–888–3362). The Regional Director may designate a person other than a NMFS agent to inspect and tag the fish. Such designation will be made in writing.

* * * * *

14. Section 285.31 is amended by revising paragraphs (a) (7), (16), (26), (30) and (31), and removing paragraph (32); and redesignating paragraphs (a)(33) through (a)(38) as paragraphs (a)(32) through (a)(37), respectively, to read as follows:

**§ 285.31 Prohibitions.**

(a) * * *

(7) Fish for, catch, possess, or land Atlantic bluefin tuna in an area otherwise closed to fishing.

* * * * *

(16) Engage in fishing with a vessel holding a permit under § 285.21 unless the vessel travels to and from the area

where it will be fishing under its own power and the person operating that vessel brings any Atlantic bluefin tuna under control (secured to the catching vessel or aboard) with no assistance from other vessels, except in circumstances where the safety of the vessel or its crew is jeopardized or due to other circumstances beyond the control of the operator;

* * * * *

(26) Fish for, catch, retain, possess or land Atlantic bluefin tuna with longline gear except as provided in § 285.23(c);

* * * * *

(30) Fish for, catch, possess or land Atlantic bluefin tuna from the Gulf of Mexico except as specified under § 285.23 (c), (d) and (l);

(31) Fish for or catch Atlantic bluefin tuna with a gear type or in a manner other than specified in §§ 285.22, 285.23, and 285.25, or other than authorized under an experimental fishing exemption issued pursuant to the requirements of § 285.7.

* * * * *

15. Section 285.50 is revised to read as follows:

**§ 285.50 Authorized fishing.**

Fishing for, catching, retention or possession of yellowfin and bigeye tuna in the regulatory area by persons or fishing vessels subject to the jurisdiction of the United States is authorized only for:

(a) Vessels employing gear types specified at § 285.9 unless the gear is authorized under an experimental fishing exemption issued pursuant to the requirements of § 285.7;

(b) Yellowfin or bigeye tuna that weigh 7 pounds round weight (3.2 kg) or more, except as provided in § 285.52.

[FR Doc. 93–13902 Filed 6–8–93; 5:08 pm]

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# Notices

Federal Register
Vol. 58, No. 112
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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.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Lolo Trail; Clearwater National Forest, Idaho County, ID

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; Intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service will prepare an environmental impact statement (EIS) that will analyze and disclose the environmental impacts of the following proposals; (1) Revise the Lolo Trail System Guidelines that were adopted into the Forest Plan. The revisions would become an amendment to the Forest Plan; (2) Reconstruct segments of the Historic Lolo Motorway (FS #500 and associated road segments that access the motorway) from Musselshell Meadows and Canyon Junction to Rocky Point Lookout in 1996. Also proposed during this time and along the same route are the construction of dispersed camping spurs, interpretative and informational signing, and trail head facilities; and (3) Construct a continuous recreation trail across the Clearwater National Forest along the Lolo Trail route. It would run from Musselshell Meadows and Lolo Campground (intersecting near Rocky Ridge) and continuing east to the Idaho-Montana border near Packer Meadows. Historic routes would be used where feasible, but segments (particularly the Lewis and Clark route in Hungery Creek) would be preserved in their natural state. The Forest objective is to complete this trail by 2005, the Lewis and Clark Expedition Bicentennial. This EIS will tier to the Clearwater National Forest Land and Resource Management Plan Final EIS of September, 1987, which provides overall guidance in achieving the desired future condition for the area.

The purpose and need for each proposed action, in order, is: (1) The original 1985 draft of the Lolo Trail System Guidelines was adopted into the Forest Plan in 1987. After six years it is apparent that a revision is needed for several reasons. The original Guidelines are difficult to read and to understand, and direction for each resource was written independently with little integration between resource areas; second, the Clearwater National Forest has been unable to establish agreement with the Advisory Council for Historic Preservation; third, the current guidelines do not provide for long term planning; fourth, the Nee-Me-Poo and Q'useyn'eisskit Trails have been since designated National Historic Trails; fifth, the current guidelines do not address the recent increase in public interest in the Lolo Trail system; and finally, systematic historical resource inventories and ethnographic surveys are currently underway or planned for the Lolo Trail system. A revision of the Guidelines, that remedies the current problems and incorporates recent changes and remains flexible to accommodate those of the future, is needed to provide clear management direction for the Lolo Trail system. (2) Considered not much more than a jeep trail now, the Historic Lolo Motorway was a major improvement in transportation across the old trail when it was built by the Civilian Conservation Corps in the early 1930's. The road exists now, as it did when it was built, narrow and rough, and steep in places, with tight curves along dizzying precipices. However, much of the original road surface has disappeared, exposing large rocks making the road almost non-maintainable and creating hazardous conditions for travelers. Increased use of the road and increased interest in the Lolo Trail system have added to the problem. Minor improvements to the road are needed to restore it near to its original condition. Construction of recreation and interpretative sites or facilities are needed to safely accommodate increase public demand while providing a quality historic and recreation experience within the Lolo Trail system. (3) There has been increased public interest and use of the Lolo Trail system, and the National Historic Trails Act directs the Forest Service to provide reasonable access to the historic trails in this area. However, it is currently difficult to achieve a quality historic and/or recreation experience in this area. Most of the trails are in poor condition. Some trail segments are located in poor locations, and some have been replaced by roads or have been obliterated by past logging activities. Construction of a maintainable, cross-Forest, recreation trail would help satisfy public demand and use, preserve known existing routes, and provide a quality historic and recreation experience within the Lolo Trail system;

The agency invites written comments and suggestions on the issues and management opportunities for the area being analyzed.

**DATES:** Comments concerning the scope of the analysis should be received by September 30, 1993 to receive timely consideration in the preparation of the Draft EIS. The Draft EIS will be filed with the Environmental Protection Agency by December 15, 1993. The Final EIS and Record of Decision are expected in July of 1994.

**ADDRESSES:** Send written comments to Bert Kulesza Deputy Forest Supervisor, Clearwater National Forest, 12730 Highway 12, Orofino, ID 83544.

**FOR FURTHER INFORMATION CONTACT:** George Harbaugh, Lolo Trail Interdisciplinary Team Leader, Lochsa Ranger District, Clearwater National Forest, (208) 926–4275.

**SUPPLEMENTARY INFORMATION:** The Lolo Trail study area consists of prehistoric and historic trails, sites, roads, and surrounding areas across three ranger districts making up the Lolo Trail system corridor and is located in Townships 34–38 North, Ranges 6–15 East of the Boise Principal Meridian. Included within this corridor are the Lolo Trail, the Lewis and Clark Trail or Buffalo Trail (Q'useyn'eisskit), the Bird-Truax Wagon Road, the Nee-Me-Poo or Nez Perce Trail, and the historic Lolo Motorway. These individual travel routes follow roughly the same route over much of the Forest, but diverge occasionally.

The cultural and historical importance of this travelway has been recognized for many years. The Lolo Trail was viewed as having national significance in 1962 when it was designated a National Historic Landmark. It was subsequently listed on the National Register of Historic Places in 1966. In 1965 the Lolo Trail was

designated a part of the Nez Perce National Historical Park by the passage of Public Law 89–19. Congress passed the National Trails System Act in 1968 establishing a framework for a nationwide system of scenic, recreational, and historic trails. In 1978 the roughly 3,700 mile long route used by Lewis and Clark, from Wood River, Illinois to the mouth of the Columbia River in Oregon, was designated a National Historic Trail. When crossing the Bitterroot Mountains the Lewis and Clark route followed most of the prehistoric Buffalo Trail, called Q'useyn'eisskit by the Nez Perce Tribe. The Nez Perce or Nee-Me-Poo Trail, extending approximately 1,170 miles from the vicinity of Wallowa Lake, Oregon to the Bears Paw Battlefield near Chinook, Montana, was designated a National Historic Trail in 1986. This was the path taken by the Wallowa Nez Perce to flee General Howard and his troops, who followed the then recently completed Bird-Truax Trail in crossing the Bitterroot Mountains.

The Clearwater National Forest Land and Resource Management Plan provides overall guidance for management activities in the potentially affected area through goals, objectives, standards, guidelines, and management area direction. For management purposes the Lolo Trail system corridor has been defined as the area approximately one half mile in width (one fourth mile on either side) that encompasses the historic Lolo Trail system. Management emphasis is aimed at providing opportunity for recreational activities oriented to traveling over, understanding, and appreciating the route as a historic travel route.

Scoping for reconstructing segments of the Lolo Motorway began in 1987, which culminated in the release of a Position Statement on July 8, 1988. That project has been incorporated into the current analysis, and the Interdisciplinary Team has identified the following preliminary issues;

1. Improved access made possible by proposed trail and road activities may affect Heritage Resources related to prehistoric and historic evidence of human activity.

2. Improved access made possible by proposed trail and road activities may affect American Indian religious, sacred, and/or food gathering sites.

3. The trail and road activities may affect habitat for threatened, endangered, and sensitive species of both animals and plants.

4. Additional camping facilities and improved access may affect elk security.

5. Proposed stream crossings could affect water quality and fish habitat.

6. The location of the recreation trail may affect sensitive soils.

7. The visual quality objectives in the revised Lolo Trail System Guidelines may affect timber options and outputs.

8. The proposals could have an economic affect on the recreation, tourism, and timber industries.

9. Proposed road reconstruction and construction of recreation facilities and sites may change the current recreation experience.

10. The revised Lolo Trail System Guidelines would allow only foot and stock traffic on the proposed recreation trail.

11. The proposals may affect the roadless character of the Hoodoo, Bighorn-Weitas, Weir-Post Office Creek, and Eldorado Creek roadless areas.

12. Additional use of the trail system by stock could introduce noxious weeds into the area.

13. Location of the recreation trail may affect the Bald Mountain Research Natural Area.

14. The proposed recreation trail will require right-of-way acquisition through private land.

The Forest Service is now looking for further information and comments from Federal, State, and local agencies, industry, and from people or groups who are interested in or affected by the proposed actions. Meetings are planned, and letters, phone calls, or personal visits are invited for the purpose of providing information related to this proposal. This additional information will be used to prepare a draft EIS. This process will include:

1. Determination of significant issues to be used in developing alternatives;

2. Identification of potential cooperating agencies;

3. Identification of additional, reasonable alternatives; and

4. Identification of potential environmental effects of the alternatives.

Public participation is important all through the analysis process. Two key time periods have been identified for receipt of formal comments on the proposal and analysis:

1. Scoping period, which is now through September 30, 1993; and

2. Review of the Draft EIS in January and February, 1994.

The Forest Service expects to file the Draft EIS with the Environmental Protection Agency by December 15, 1993. The Final EIS and Record of Decision are expected in July of 1994. The responsible official is the Forest Supervisor of the Clearwater National Forest, Forest Supervisor's Office, 12730 Highway 12, Orofino, ID 83544.

The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS.

Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

Dated: May 24, 1993.

**Bert Kulesza,**

*Deputy Forest Supervisor.*

[FR Doc. 93–13915 Filed 6–11–93; 8:45 am]

BILLING CODE 3410–11–M

## USHK Bay Timber Sale Offerings (FY 94); Tongass National Forest Chatham Area, Sitka, Alaska; Public Hearing for Subsistence Testimony and Public Comment

The Department of Agriculture, Forest Service will hold an Open House and Public Hearing for subsistence testimony and public comment regarding the Draft Environmental Impact Statement (DEIS) for the Ushk Bay timber sale on July 19, 1993. The Open House is provided for members of the public to ask questions and receive

answers directly. Comments on the DEIS may be submitted at that time. The Hearing is intended to meet Subsistence Evaluation requirements outlined in Section 810, Alaska National Interest Lands Conservation Act (ANILCA) and provide an opportunity for public comment on the DEIS.

The Hearing is designed to receive testimony from individuals, agencies, and organizations on the alternatives proposed in the DEIS for the Ushk Bay Project Area, and how these alternatives may potentially affect users of subsistence resources of the Ushk Bay area.

The Open House and Public Hearing will be held in Sitka, Alaska on July 19, 1993. The Open House will be held from 6 to 7:30 p.m. and the Public Hearing from 7:30 to 9:30 p.m. in the Centennial Building. Written subsistence testimony is just as acceptable as oral testimony but must be received within 5 days of the Public Hearing. Send written testimony to Ushk Bay Planning Team, Forest Service, 204 Siginaka Way, Sitka, Alaska, 99835.

The ANILCA Section 810 subsistance evaluation and findings are detailed in the DEIS. The DEIS was released on June 4, 1993 and comments concerning the DEIS must be received by July 26, 1993. Copies of the DEIS and further information is available from the Ushk Bay Planning Team, Forest Service, 204 Siginaka Way, Sitka, Alaska, 99835, (907) 747–6671.

Dated: June 7, 1993.

**Jere Christner,**

*Acting Forest Supervisor.*

[FR Doc. 93–13909 Filed 6–11–93; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket No. 920669–3101]**

### Taking of Marine Mammals Incidental to Commercial Fishing Operations; Interim Exemption for Commercial Fisheries

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of interim final list of fisheries for 1993 and request for comments.

**SUMMARY:** NMFS issues this interim final List of Fisheries for 1993 associated with the interim exemption for the taking of marine mammals incidental to commercial fishing operations under section 114 of the Marine Mammal Protection Act of 1972 (MMPA) to become effective June 14, 1993. NMFS is also soliciting comments on this interim final List of Fisheries. On August 5, 1992 (57 FR 34553), NMFS proposed to maintain the 1992 List of Fisheries for 1993 and requested comments and information on the proposed List of Fisheries for 1993. NMFS obtained additional interaction information since the proposed List of Fisheries for 1993 which, in addition to comments received, warranted the reclassification of all or parts of three fisheries and the redefinition of a fourth fishery in the interim final List of Fisheries of 1993.

**DATES:** Comments on the charges presented in this interim final List of Fisheries for 1993 must be submitted by July 14, 1993. The interim final List of Fisheries for 1993 is effective June 14, 1993. Vessel owners who will operate in Category I or II for the first time have until July 14, 1993 to register.

**ADDRESSES:** Comments on the changes presented in this interim final List of Fisheries for 1993 should be addressed to Dr. William W. Fox, Jr., Director, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, Attention: Victoria R. Credle.

**FOR FURTHER INFORMATION CONTACT:** Victoria R. Credle, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910, 301–713–2322.

**SUPPLEMENTARY INFORMATION:** Section 114 of the MMPA establishes an interim exemption for the taking of marine mammals incidental to commercial fishing operations and requires NMFS to publish and annually update a List of Fisheries, along with the marine mammals and number of vessels or persons involved in each fishery, in three categories, as follows:

(I) A frequent incidental taking of marine mammals;

(II) An occasional incidental taking of marine mammals; or

(III) A remote likelihood, or no known incidental taking, of marine mammals.

Based on Congressional guidance, NMFS interpretation of the 1988 Amendments, public comment, and meetings and consultations with state and Federal agencies, Regional Fishery Management Councils, and other interested parties, NMFS published the original List of Fisheries on April 20, 1989 (54 FR 16072). NMFS also published an interim rule governing the taking of marine mammals incidental to commercial fishing operations on May 19, 1989 (54 FR 219100, and a final rule governing reporting of the take of marine mammals incidental to commercial fishing operations on December 15, 1989 (54 FR 51718).

On August 5, 1992 (57 FR 34553), NMFS proposed to maintain the 1992 List of Fisheries for 1993 and requested comments and information on the proposed List of Fisheries for 1993.

The following criteria were used in classifying fisheries in the List of Fisheries:

*Category I.* There is documented information indicating a "frequent" incidental taking of marine mammals in the fishery. "Frequent" means that it is highly likely that more than one marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period.

*Category II.* (1) There is documented information indicating an "occasional" incidental taking of marine mammals in the fishery, or (2) in the absence of information indicating the frequency of incidental taking of marine mammals, other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, and species and distribution of marine mammals in the area suggest there is a likelihood of at least an "occasional" incidental taking in the fishery. "Occasional" means that there is some likelihood that one marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period, but that there is little likelihood that more than one marine mammal will be incidentally taken.

*Category III.* (1) There is information indicating no more than a "remote likelihood" of an incidental taking of a marine mammal in the fishery, or (2) in the absence of information indicating the frequency of incidental taking of marine mammals, other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, and species and distribution of marine mammals, in the area suggest there is no more than a remote likelihood of an incidental take in the fishery. "Remote likelihood" means that it is highly unlikely that any marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period.

Three comments were received in response to the notice of proposed list from fishermen and conservation groups. These comments are summarized below and were considered in developing the List of Fisheries for 1993. A summary of the changes to the List of Fisheries for 1993 appears after the comments sections.