

**DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****25 CFR Part 151**

RIN 1076-AD90

**Acquisition of Title to Land in Trust:  
Delay of Effective Date****AGENCY:** Bureau of Indian Affairs, Interior.**ACTION:** Final rule; delay of effective date.

**SUMMARY:** In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," 66 FR 7701 (Jan. 24, 2001), this document temporarily delays for 60 days the effective date of the rule entitled Acquisition of Title to Land in Trust, published in the **Federal Register** on January 16, 2001, at 66 FR 3452. That rule concerns procedures used by Indian tribes and individuals to ask the Secretary of the Interior to acquire title to land into trust and criteria used to determine whether to accept land to be held in trust.

**DATES:** The effective date of the Acquisition of Title to Land in Trust rule, amending 25 CFR part 151, published in the **Federal Register** on January 16, 2001, at 66 FR 3452, is delayed for 60 days, from January 16, 2001 to a new effective date of March 17, 2001.

**FOR FURTHER INFORMATION CONTACT:** Terry Virden, Director, Office of Trust Responsibilities, Mail Stop: 4513-MIB, 1849 "C" Street NW., Washington, DC 20240; telephone: 202-208-5831; electronic mail: [TerryVirden@BIA.GOV](mailto:TerryVirden@BIA.GOV)

**SUPPLEMENTARY INFORMATION:** The Department's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. sections 553(b)(3)(B) and 553(d)(3), in that seeking public comment is impractical, unnecessary and contrary to the public interest. The temporary 60-day delay in effective date is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

Dated: January 31, 2001.  
**Timothy S. Elliott,**  
*Acting Deputy Solicitor.*  
[FR Doc. 01-2963 Filed 2-2-01; 8:45 am]  
**BILLING CODE 4310-02-M**

**DEPARTMENT OF AGRICULTURE****Forest Service****36 CFR Part 294**

RIN 0596-AB77

**Special Areas; Roadless Area  
Conservation: Delay of Effective Date****AGENCY:** Forest Service, Department of Agriculture.**ACTION:** Final rule; Delay of effective date.

**SUMMARY:** In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," published in the **Federal Register** on January 24, 2001, this action temporarily delays for 60 days the effective date of the rule entitled Special Areas; Roadless Area Conservation, published in the **Federal Register** on January 12, 2001, 66 FR 3244. That rule concerns the establishment of prohibitions on road construction, road reconstruction, and timber harvesting in inventoried roadless areas on National Forest System lands. To the extent that 5 U.S.C. section 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. section 553(b)(A). Alternatively, the Department's implementation of this rule without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. section 553(b)(B) and 553(d)(3). Seeking public comment is impracticable, unnecessary and contrary to the public interest. The temporary 60-day delay in effective date is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. The imminence of the effective date is also good cause for making this rule effective immediately upon publication.

**DATES:** The effective date of the Special Areas; Roadless Area Conservation, published in the **Federal Register** on January 12, 2001, at 66 FR 3244, is delayed for 60 days, from March 13, 2001 to a new effective date of May 12, 2001.

**FOR FURTHER INFORMATION CONTACT:** Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090, telephone (703) 605-4533.

Dated: January 29, 2001.

**Ann M. Veneman,**  
*Secretary.*

[FR Doc. 01-2869 Filed 2-2-01; 8:45 am]

**BILLING CODE 3410-11-M****FEDERAL COMMUNICATIONS  
COMMISSION****47 CFR Part 90**

[PR Docket No. 92-235; FCC 00-439]

**Replacement of Part 90 by Part 88 To  
Revise the Private Land Mobile Radio  
Services and Modify the Policies  
Governing Them and Examination of  
Exclusivity and Frequency Assignment  
Policies of the Private Land Mobile  
Services****AGENCY:** Federal Communications Commission.**ACTION:** Final rule; petitions for reconsideration.

**SUMMARY:** This document disposes of seven petitions for reconsideration or clarification and one comment submitted in response to the Commission's Final rule. The Commission accepts a compromise frequency coordination plan, thus disposing of two petitions and facilitating the frequency coordination process. Petitions seeking other relief are granted, granted in part, dismissed or denied, thereby to provide further protection to safety related communications of Private Land Mobile Radio (PLMR) licensees while still maintaining the spectrum efficiency achieved through the sharing of PLMR frequencies among multiple users.

**DATES:** Effective March 7, 2001 except for §§ 90.35(b)(2)(iii) and 90.175(b)(1) which contain information collection that has not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections and that paragraph. Written comments by the public on new and/or modified information collections are due April 6,

2001. OMB must submit written comments on the information collection on or before June 5, 2001.

**ADDRESSES:** In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1—C804, 445 12th Street, SW., Washington, DC 20554, email [jboley@fcc.gov](mailto:jboley@fcc.gov).

**FOR FURTHER INFORMATION, CONTACT:** Michael J. Wilhelm, 445 12th Street, SW., Room 4C305, Washington, DC 20554; telephone 202.418.0680; email [mwilhelm@fcc.gov](mailto:mwilhelm@fcc.gov). For further information on the information collection(s) contact Judy Boley, Federal Communications Commission, Room 1—C804, 445 12th Street, SW., Washington, DC 20554, email [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Fifth Memorandum Opinion and Order* (Fifth MO&O) in WT Docket 92–225 released December 29, 2000. The complete text of this *Fifth MO&O* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC 20554; and also is available from the Commission's copying contractor, International Transcription Services (ITS, Inc.) Courtyard Level, 445 12th Street, SW., Washington, DC 20554. The *Fifth MO&O* addressed seven petitions for reconsideration and one comment, all directed to the rules established by the Commission's Second Report and Order (Second R&O) 62 FR 18834 4/17/97 in this proceeding.

1. In petitions for reconsideration, the Forest Industries Telecommunications (FIT) and the Manufacturers Radio Frequency Advisory Council (MRFAC) opposed earlier-adopted rules that gave licensees and applicants for former Power, Petroleum, and Railroad frequencies special treatment in the frequency coordination process whereby licensees are assigned particular radio channels. After the FIT and MRFAC petitions had been filed, the Land Mobile Communications Council (LMCC) filed a comment containing a compromise frequency coordination plan that was satisfactory to LMCC members, including FIT and MRFAC. Accordingly, the Commission adopted the substance of the LMCC plan and devised implementing rule provisions. Additionally, the Commission directed frequency coordinators to reach consensus on the standards to be used to assess co-channel and adjacent channel interference and to report the

results of their consensus findings to the Commission.

2. Although the Commission favors narrowband radio equipment because it conserves valuable spectrum, there are instances in which wideband equipment of particular designs may also be spectrum efficient. In the *Second R&O*, the Commission said that it would consider waiver requests from potential licensees who wanted to use spectrum-efficient wideband equipment. In its petition for reconsideration, MRFAC suggested that evaluation of such waiver requests should be done by frequency coordinators. The Commission disagreed, pointing out that there were public interest considerations inherent in such waiver requests and that the Commission is best equipped to evaluate matters related to the public interest.

3. In its petition for reconsideration, Dataradio claimed that a low power channel plan submitted by the LMCC allowed secondary voice transmissions on data channels. It argued that such voice transmissions would result in harmful interference to data transmissions. The Commission dismissed Dataradio's claim as premature because the LMCC plan dealing with reserved data channels had not been accepted by the Commission and thus was not ripe for reconsideration.

4. The Alarm Industry Communications Committee and a law firm filed petitions for clarification asking the Commission to confirm that the *Second R&O* rule that deleted the requirement that low power stations be licensed as mobiles, did not mean that the applications for such stations had to contain geographical coordinates and other information typically required of fixed stations. The Commission confirmed that was the case and reiterated that licensees of such stations can place transmitters anywhere within a defined service area by specifying a central location and a radius extending therefrom.

5. In its petition for reconsideration, UTC claimed that the Commission had failed to provide frequency coordination protection from adjacent channel interference. The Commission stated that UTC was mistaken and that it had been clear in the *Second R&O* that frequency coordinators should take adjacent channel interference into account in the frequency coordination process.

6. The Hewlett Packard Corporation petition for reconsideration requested a negotiated rulemaking or other process to adopt rules that would protect medical telemetry operations. The

Commission denied the petition because, since submission of the petition for reconsideration, other measures to protect medical telemetry had been adopted.

7. In its petition for reconsideration, Com Net Ericsson requested certain modifications or deletions to the Commission's rules regulating trunked operation of radio facilities. The Com Net Ericsson request was dismissed because the Commission had already made the requested changes in connection with a related proceeding.

#### Final Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice of Proposed Rule Making* and the *Further Notice of Proposed Rule Making* in PR Docket 92–235.<sup>1</sup> The Commission sought written public comment on the rule making proposals in the *Refarming Notice* and *Further Notice*, including on the respective IRFAs. This present Final Regulatory Flexibility Analysis (Final FRFA) in this *Fifth MO&O* conforms to the RFA.<sup>2</sup>

#### (1) Need For, and Objectives of This Action

9. Our objective is to increase spectrum efficiency and facilitate the introduction of advanced technologies

<sup>1</sup> Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, PR Docket 92–235, *Notice of Proposed Rule Making*, 57 FR 54034 11/16/92, 7 FCC Rcd 8105, 8133 (1992) (*Refarming Notice*). Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Radio Services, PR Docket No. 92–235, *Report and Order and Further Notice of Proposed Rule Making*, 60 FR 37152 7/19/95, 10 FCC Rcd 10076, 10177 (1995) (*Report and Order or Further Notice*). A Final Regulatory Flexibility Analysis was provided in the first *Memorandum Opinion and Order*, Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, PR Docket 92–235, *Memorandum Opinion and Order*, 62 FR 2027 1/15/97, 11 FCC Rcd. 17676, 17718 (1996). An additional Final Regulatory Flexibility Analysis was furnished in connection with the *Second Report and Order*, Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, PR Docket 92–235, *Second Report and Order*, 62 FR 18834 4/17/97, 12 FCC Rcd 14307, 14353 (1997). A Supplemental Final Regulatory Flexibility was provided in the *Second Memorandum Opinion and Order*, Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, PR Docket 92–235, *Second Memorandum Opinion and Order*, 64 FR 36258 7/6/99 14 FCC Rcd. 8642, 8673 (1999).

<sup>2</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

into the 150–174 MHz, 421–430 MHz, 450–470 MHz, and 470–512 MHz private land mobile radio (PLMR) bands. The *Report and Order* in this proceeding modified the Commission's rules to resolve many of the technical issues which inhibited the use of spectrally efficient technologies in these frequency bands. It also stated the Commission's intent to consolidate the twenty existing radio service pools. The *Further Notice* in this proceeding proposed several methods of introducing market based incentives into the PLMR bands, including exclusivity. In the *Second R&O*, the Commission consolidated the radio service frequency pools and addressed related issues such as frequency coordination, trunking, and low power frequencies. The *Second MO&O* addressed petitions for reconsideration and clarification received in response to the *Second R&O*. The *Third MO&O* established rules for trunking and terminated the exclusivity portion of the proceeding. The *Fourth MO&O* stayed the effect of the new coordination rules. This *Fifth MO&O* addresses petitions for reconsideration or clarification of the *Second MO&O* and establishes new frequency coordination rules.

10. The Commission finds that the potential benefits to the Private Land Mobile Radio (PLMR) community from the promulgation of rules for this purpose exceed any negative effects that may result. Thus, the Commission concludes that the public interest is served by modifying our rules.

#### (2) Summary of Significant Issues Raised by the Public in Response to the Previous Final Regulatory Flexibility Analyses

11. No reconsideration petitions were submitted in direct response to the previous FRFAs. The Commission has, however, reviewed general comments that may impact small businesses. Much of the impact on small businesses arises from the central decision in this proceeding—determining the number of frequency pools and the eligibility criteria for each pool. This affects small businesses in the following way. A smaller number of pools provides a greater number of frequencies available for small businesses that use PLMR systems to meet their coordination needs. Additionally, by creating fewer pools, frequency coordinators will now be subject to competition. Thus, small businesses that use PLMR systems can expect to pay lower prices for frequency coordination while receiving equivalent or better service. An additional impact on small business may result from the new frequency coordination rules which

may marginally increase the cost of frequency coordination.

#### (3) Description and Estimate of the Number of Small Entities Subject to Which the Rules Apply

12. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>3</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>4</sup> A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>5</sup> A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."<sup>6</sup> Nationwide, as of 1992, there were approximately 275,801 small organizations.<sup>7</sup> "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."<sup>8</sup> As of 1992, there were approximately 85,006 such jurisdictions in the United States.<sup>9</sup> This number includes 38,978 counties, cities and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.<sup>10</sup> The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the Commission estimates that 81,600 (91 percent) are small entities.

13. Estimates for PLMR Licensees: Private land mobile radio systems serve

<sup>3</sup> See 5 U.S.C. 601(6).

<sup>4</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the *Federal Register*." 5 U.S.C. 601(3).

<sup>5</sup> Small Business Act, 5 U.S.C. 632 (1996).

<sup>6</sup> 5 U.S.C. 601(4).

<sup>7</sup> 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to the Office of Advocacy of the Small Business Administration).

<sup>8</sup> 5 U.S.C. 601(5).

<sup>9</sup> U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

<sup>10</sup> *Id.*

an essential role in a vast range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the Commission has not developed, nor would it be possible to develop, a definition of small entities specifically applicable to PLMR users. For the purpose of determining whether a licensee is a small business as defined by the Small Business Administration (SBA), each licensee would need to be evaluated within its own business area. The Commission's fiscal year 1994 annual report indicates that, at the end of fiscal year 1994, there were 1,101,711 licensees operating 12,882,623 transmitters in the PLMR bands below 512 MHz.<sup>11</sup> Further, because any entity engaged in a commercial activity is eligible to hold a PLMR license, these rules could potentially impact every small business in the U.S.

14. Estimates for Frequency Coordinators: Neither the Commission nor the SBA have developed a definition of small entities specifically applicable to frequency coordinators. Therefore, the Commission concluded that the closest applicable definition under SBA rules is Business Associations (SIC 8611).<sup>12</sup> The SBA defines a small business association as an entity with \$5.0 million or less in annual receipts. There are 19 entities certified to perform frequency coordination functions under Part 90 of our Rules. However, the Commission is unable to ascertain how many of these frequency coordinators are classified as small entities under the SBA definition. The Census Bureau indicates that 97% of business associations have annual receipts of \$4.999 million or less and would be classified as small entities. The Census Bureau category is very broad, and does not include specific figures for firms that are engaged in frequency coordination. Therefore, for the purposes of this Final FRFA, the Commission estimates that almost all of the 18 spectrum frequency coordinators are small as defined by the SBA.

#### (4) Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rules.

15. This *Fifth MO&O* requires frequency coordinators to arrive at consensus standards for co-channel and adjacent channel interference and to report these standards to the Commission. This represents a one-time

<sup>11</sup> See Federal Communications Commission, 60th Annual Report, Fiscal Year 1994 at 120–121.

<sup>12</sup> See *Second R&O* at 14355.

effort on the part of the frequency coordinators. The Commission believes that participation in the consensus process will be highly variable from one coordinator to another. However, on the average, the Commission anticipates that activities associated with reaching consensus and the preparation of the requisite report will occupy 40 hours of time per coordinator, of which there are 19.

#### (5) Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

16. The Commission, in this *Fifth MO&O*, has considered petitions for reconsideration and clarification regarding its *Second R&O* in PR Docket No. 92-235, which consolidated the PLMR radio services below 512 MHz and, *inter alia*, made provisions regarding frequency coordination in the Industrial/Business Pool. In doing so, the Commission has adopted a proposal which minimizes the burdens placed on small businesses. The new frequency coordination procedure, grounded, in part on comments representative of industry consensus, allows the applicants some choice in selecting a frequency coordinator, thereby introducing competition and reducing costs; but, in order to minimize potential interference, concurrence of another coordinator may be required in some instances. This *Fifth MO&O* also requires frequency coordinators to provide a consensus report to the Commission concerning standards for co-channel and adjacent channel interference. Although some initial burden thus rests on the coordinators in preparation of the report, the net effect will be to reduce the overall burden associated with the frequency coordination process inasmuch as there will likely be no significant further disputes among coordinators, with associated workload, concerning the appropriate standard to use when conducting an interference analysis.

#### Report to Congress

17. The Commission will send a copy of this *Fifth MO&O* including this Final FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Fifth MO&O*, including Final FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Fifth MO&O* and Final FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

#### Paperwork Reduction Act Analysis

18. This Memorandum Opinion and Order contains a new information collection(s). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection(s) contained in this Memorandum Opinion and Order as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due April 6, 2001. Comments should address: (a) whether the new collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Control Number:* 3060-XXXX.

*Title:* Section 90.35 Industrial/Business Pool & 90.175 Frequency Coordination Requirements.

*Type of Review:* New collection.

*Respondents:* Business or other for-profit, not-for-profit institutions, State, Local, or Tribal Governments.

*Number of Respondents:* 3800 respondents.

*Estimated Time per Response:* 1 hour per response.

*Total Annual Burden:* 3800 hours.

*Cost to Respondents:* No annual cost burden on respondents from either capital or start-up costs.

*Needs and Uses:* The information collected from proposed and existing licensees will be used to facilitate the frequency coordination process and to protect existing stations against harmful interference. The requested information is needed to improve the frequency coordination process with a resultant improvement in efficient use of the spectrum.

*OMB Control Number:* 3060-XXXX.

*Title:* Report on Co-Channel and Adjacent Channel Interference Report.

*Type of Review:* New collection.

*Respondents:* Business or other for-profit, not-for-profit institutions.

*Number of Respondents:* 19 respondents.

*Estimated Time per Response:* 40 hours.

*Total Annual Burden:* 760 hours.

*Cost to Respondents:* No annual cost burden on respondents from either capital or start-up costs.

*Needs and Uses:* The information collected from frequency coordinators

will be used to establish a uniform calculus for estimation of co-channel and adjacent channel interference from proposed stations to existing Public Land Mobile Radio Service stations. The requested information is needed to improve the frequency coordination process with a resultant improvement in efficient use of the spectrum.

#### List of Subjects in 47 CFR Part 90

Communications, Private Land Mobile Radio Services.

Federal Communications Commission.

**William F. Caton,**  
*Deputy, Secretary.*

#### Rule Changes

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

#### PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

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

2. Section 90.35 is amended by redesignating paragraph (b)(2)(iii) as paragraph (b)(2)(iv) and adding a new paragraph (b)(2)(iii) and revising paragraph (b)(2)(ii) to read as follows:

#### § 90.35 Industrial/business pool.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) \* \* \*

(ii) A letter symbol in the Coordinator column of the frequency table in paragraph (b)(3) of this section designates the mandatory certified frequency coordinator for the associated frequency in the table. However, any coordinator certified in the Industrial/Business Pool may coordinate applications on such frequencies provided the prior written consent of the designated coordinator is obtained. Frequencies for which two coordinators are listed may be coordinated by either of the listed coordinators.

(iii) Applications for new or modified facilities on frequencies shared prior to radio service consolidation by the former Manufacturers Radio Service, the Forest Products Radio Service, the Power Radio Service, the Petroleum Radio Service, the Motor Carrier Radio Service, the Railroad Radio Service and the Automobile Emergency Radio Service may be coordinated by any certified Industrial/Business Pool

coordinator. However, in the event that the interference contour of a proposed station would overlap the service contour of an existing station licensed on one of these previously shared frequencies, the written concurrence of the coordinator associated with the industry for which the existing station license was issued, or the written concurrence of the licensee of the existing station, shall be obtained. For the purposes of this § 90.35, the service contour for UHF stations is the 39 dBu contour; and the interference contour for UHF stations is the 21 dBu contour; the service contour for VHF stations is the 37 dBu contour; and the interference contour for VHF stations is the 19 dBu contour.

\* \* \* \* \*

3. Section 90.175 is amended by revising paragraphs (b)(1), (b)(2), and (b)(3) to read as follows:

**§ 90.175 Frequency coordination requirements.**

\* \* \* \* \*

(b) \* \* \*

(1) A statement is required from the applicable frequency coordinator as specified in §§ 90.20(c)(2) and 90.35(b) recommending the most appropriate frequency. In addition, if the interference contour of a proposed station would overlap the service contour of a station on a frequency formerly shared prior to radio service consolidation by licensees in the Manufacturers Radio Service, the Forest Products Radio Service, the Power Radio Service, the Petroleum Radio Service, the Motor Carrier Radio Service, the Railroad Radio Service or the Automobile Emergency Radio Service, the written concurrence of the coordinator for the industry-specific service, or the written concurrence of the licensee itself, must be obtained. Requests for concurrence must be responded to within 20 days of receipt of the request. The written request for concurrence shall advise the receiving party of the maximum 20 day response period. The coordinator's recommendation may include comments on technical factors such as power, antenna height and gain, terrain and other factors which may serve to minimize potential interference. In addition:

(2) On frequencies designated for coordination or concurrence by a specific frequency coordinator as specified in §§ 90.20(c)(3) and 90.35(b), the applicable frequency coordinator shall provide a written supporting statement in instances in which coordination or concurrence is denied. The supporting statement shall contain

sufficient detail to permit discernment of the technical basis for the denial of concurrence. Concurrence may be denied only when a grant of the underlying application would have a demonstrable, material, adverse effect on safety.

(3) In instances in which a frequency coordinator determines that an applicant's requested frequency or the most appropriate frequency is one designated for coordination or concurrence by a specific frequency coordinator as specified in §§ 90.20(c)(3) or 90.35(b), that frequency coordinator may forward the application directly to the appropriate frequency coordinator. A frequency coordinator may only forward an application as specified above if consent is received from the applicant.

[FR Doc. 01-2870 Filed 2-2-01; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 991210332-0212-02; I.D. 122700B]

RIN 0648-AO95

**Atlantic Highly Migratory Species (HMS) Fisheries; Regulatory Adjustments**

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** NMFS amends the final regulations governing the Atlantic HMS fisheries to clarify the annual quota for blue sharks, to revise a cross-reference for shark size limits, and to revise the specifications for the East Florida Coast and Charleston Bump closed areas as intended by the recent final rule to minimize bycatch and incidental catch in the pelagic longline fishery.

**DATES:** Effective January 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz at 301-713-2347, FAX: 301-713-1917.

**SUPPLEMENTARY INFORMATION:** On May 28, 1999, NMFS published a final rule (64 FR 29090) that implemented, among other things, the Atlantic Tunas, Swordfish, and Sharks Fishery Management Plan (HMS FMP), which was adopted by the agency in April

1999. The final consolidated rule included language specifying the semiannual blue shark quota but inadvertently omitted language specifying the annual blue shark quota. The final consolidated rule also incorrectly cross-referenced the shark minimum size limit that is specified in the HMS FMP.

Additionally, on August 1, 2000, NMFS published a final rule (65 FR 47214) that prohibited pelagic longline fishing at certain times and in certain areas within the Exclusive Economic Zone (EEZ) of the Atlantic Ocean off the coast of the Southeastern United States and in the Gulf of Mexico. In that final rule, the definitions for the East Florida Coast and Charleston Bump closed areas inadvertently specified parts of the Atlantic Ocean outside the U.S. EEZ. As noted throughout the record for the final rule, the agency intended the restrictions to apply only in the U.S. EEZ. This technical amendment corrects these errors in the regulatory text and does not change the intent of the final rule. Due to the respecification of the referenced closed areas and the need for NMFS to distribute this information to affected fishermen and State and Federal enforcement personnel, NMFS postpones initiation of those time/area closures until March 1, 2001.

**Classification**

The Assistant Administrator for Fisheries (AA), under 5 U.S.C. 553(b)(B), finds that providing prior notice and opportunity for public comment on this final rule is unnecessary and contrary to the public interest. This final rule corrects earlier rules by clarifying regulatory text inconsistent with the final HMS FMP and the Final Supplemental Environmental Impact Statement for the regulatory amendment reducing bycatch, bycatch mortality, and incidental catch in the Atlantic pelagic longline fishery. These corrections and clarifications are necessary to avoid adverse impacts on fishery participants that would result from inconsistent interpretations of the regulations relative to these regulations and/or the inability of NMFS to enforce regulations due to lack of clarity. For similar reasons, the AA, under 5 U.S.C. 553(d)(3), finds that delaying the effective date of this final rule for 30 days is unnecessary and contrary to the public interest.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. This action is