

(10) A subscriber units must be compatible with C4FM and CQPSK Modulation in conformance with the following standard: TIA TSB-102.CABA, released December 11, 2013.

(11) A fixed conventional repeater must be able to repeat the correct/matching network access code (NAC) for all subscriber call types (clear and encrypted) using the same output NAC in conformance with the following standard: TIA TSB-102.CABA, released December 11, 2013.

(12) A fixed conventional repeater must be able to repeat the correct/matching network access code (NAC) for all subscriber call types (clear and encrypted) using a different output NAC in conformance with the following standard: TIA TSB-102.CABA, released December 11, 2013.

(13) A fixed conventional repeater must be able to reject (no repeat) all input transmissions with incorrect network access code (NAC) in conformance with the following standard; TIA TSB-102.CABA, released December 11, 2013.

(14) A fixed conventional repeater must be able to support the correct status symbol indicating when an input channel is busy in conformance with the following standard: TIA TSB-102.CABA, released December 11, 2013.

(15) A fixed conventional repeater must be able to support the correct implementation of special reserved network access code (NAC) values \$293, \$F7E, and \$F7F in conformance with the following standard: TIA TSB-102.CABA, released December 11, 2013.

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## SURFACE TRANSPORTATION BOARD

### 49 CFR Parts 1201, 1242

[Docket No. EP 681]

#### Class I Railroad Accounting and Financial Reporting—Transportation of Hazardous Materials

**AGENCY:** Surface Transportation Board.

**ACTION:** Advance notice of proposed rulemaking, withdrawal.

**SUMMARY:** The Surface Transportation Board is withdrawing the advance notice of proposed rulemaking and discontinuing the EP 681 rulemaking proceeding which sought comment on whether and how it should update its accounting and financial reporting for Class I rail carriers to better capture the operating costs of transporting hazardous materials.

**DATES:** The advance notice of proposed rulemaking published on January 5, 2009 (74 FR 248) is withdrawn and the rulemaking proceeding is discontinued on September 22, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Allison Davis at (202) 245-0378. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** On January 5, 2009, in the above titled docket, the Board issued an Advance Notice of Proposed Rulemaking (ANPR) seeking public comment on whether and how it should update its accounting and financial reporting for Class I rail carriers and refine its Uniform Railroad Costing System (URCS) to better capture the operating costs of transporting hazardous materials. For the reasons stated below, we will discontinue this proceeding.

The Board uses URCS to determine a carrier's variable costs in a variety of regulatory proceedings. The URCS model determines, for each Class I railroad, what portion of each category of costs shown in that carrier's Annual Report to the Board (STB Form R-1) represents its system-average variable cost for that year, expressed as a unit cost. In the ANPR, the Board noted that there may be unique operating costs associated with the transportation of hazardous materials that URCS does not attribute to those movements. As an example, the Board suggested that the transportation of hazardous materials may require carriers to pay high insurance premiums, which would be spread across all traffic of the railroad rather than being attributed specifically to the transportation of the hazardous materials. Additionally, the Board noted that the Uniform System of Accounts (USOA)—the accounting standards which Class I carriers must use to prepare the financial statements that they submit to the Board—does not include a separate classification for hazardous material operations that would allow for an accounting of the assets used and costs incurred in providing such service.

The Board therefore sought comment on “whether and how it should improve its informational tools to better identify and attribute the costs of hazardous-material transportation movements,” including any revisions to the USOA and improvements to the analytic capabilities of URCS. *ANPR*, slip op. at 2. The Board specifically sought comment on several items, including how hazardous material operations and expenses could be reported in a

subschedule of the annual R-1 reports, a specific definition of what should constitute a movement of hazardous material for this purpose, whether that definition should be limited to movements of “Toxic Inhalation Hazards” or not, and the best operating statistic (such as car-miles, revenue ton-miles, or revenue tons of hazardous materials movements) for URCS to use to allocate specified hazardous material costs to individual movements. In response to the ANPR, the Board received comments from multiple stakeholders, as discussed below.<sup>1</sup>

DOT agrees that “additional data should be reported to [USOA] in order to identify and quantify these [hazardous material] costs, and that URCS should attribute these costs to hazmat traffic alone rather than to the entirety of a carrier's business.” (DOT Comment 2.)

AAR, BNSF, CP, and UP generally agree with the Board's stated goals in this proceeding. (AAR Comment 2; BNSF Comment 2, CP Comment 7, 9; UP Comment 7.) However, they also argue that changes to URCS would not sufficiently address the railroad industry's concerns with transporting hazardous material. BNSF and NSR underscore the risk of liability from a catastrophic accident (BNSF Comment 2; NSR Comment 2-3), while UP stresses the importance of fairly apportioning risk across all participants in the supply chain (UP Comment 2). The railroads argue that, even if the Board were to change URCS, they should also be allowed to present the unique costs of transporting hazardous materials in rate proceedings involving hazardous materials. (See AAR Comment 2; CP Comment 3-4, 9; NSR Comment 3; UP Comment 8-9.)

ACC, AECC, and Diversified CPC argue that the Board should not limit a review of URCS by any single issue or commodity, but should instead conduct a broader review of URCS. (ACC Comment 2; AECC Comment 2; Diversified CPC Comment 8.) ACC also argues that the proposed rulemaking would be arbitrary and ill-advised because, while some railroads have faced one-time costs from settlements of claims, the railroads have reported few

<sup>1</sup> The Board received comments from: The American Chemistry Council, the Chlorine Institute, The Fertilizer Institute, and the Edison Electric Institute (collectively, ACC); Arkansas Electric Cooperative Corporation (AECC); the Association of American Railroads (AAR); BNSF Railway Company (BNSF); Canadian Pacific Railway Company (CP); Diversified CPC International, Inc. (Diversified CPC); Norfolk Southern Railway Company (NSR); Union Pacific Railroad Company (UP); and the U.S. Department of Transportation (DOT).

ongoing, quantifiable costs relating solely to hazardous materials transportation. (ACC Comment 2.)

While the Board appreciates the input it received from the commenters in this proceeding, it has decided to close this docket. Although the Board is not foreclosing the possibility of addressing this issue in the future, even if it were to do so, it would be initiated as a new proceeding. Thus, we will not move forward with this proceeding at this time and will discontinue this docket in the interest of administrative efficiency.

Decided: September 20, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

**Marline Simeon,**  
Clearance Clerk.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 160527473-6473-01]

RIN 0648-BG09

#### Atlantic Highly Migratory Species; Individual Bluefin Quota Program; Inseason Transfers

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

**ACTION:** Proposed rule; request for comments; notice of public hearing.

**SUMMARY:** NMFS proposes to modify the Atlantic highly migratory species (HMS) regulations to provide additional flexibility regarding the distribution of inseason Atlantic bluefin tuna (BFT) quota transfers to the Longline category. The proposed rule would provide NMFS the flexibility to distribute quota inseason either to all qualified Individual Bluefin Quota (IBQ) share recipients (*i.e.*, share recipients who have associated their permit with a vessel) or only to permitted Atlantic Tunas Longline vessels with recent fishing activity, whether or not they are associated with IBQ shares.

**DATES:** Written comments must be received on or before October 26, 2016. NMFS will host an operator-assisted public hearing conference call and webinar on October 4, 2016, from 2 to 4 p.m. EDT, providing an opportunity for individuals from all geographic areas

to participate. See **SUPPLEMENTARY INFORMATION** for further details.

**ADDRESSES:** You may submit comments on this document, identified by “NOAA-NMFS-2016-0067,” by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2016-0067](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2016-0067), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Thomas Warren, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Drive, Gloucester, MA 01930.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and generally will be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

The public hearing conference call information is phone number (888) 455-5378; participant passcode 5816248. Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show a brief presentation via webinar followed by public comment. To join the webinar, go to: <https://noaaevents3.webex.com/noaaevents3/onstage/g.php?MTID=e20e9f661ee7184823fb28b56cbf7d16f>; meeting number: 993 144 732; password: NOAA. Participants who have not used WebEx before will be prompted to download and run a plug-in program that will enable them to view the webinar.

Supporting documents, including the Regulatory Impact Review and Initial Regulatory Flexibility Analysis, may be downloaded from the HMS Web site at [www.nmfs.noaa.gov/sfa/hms/](http://www.nmfs.noaa.gov/sfa/hms/). These documents also are available by contacting Thomas Warren at the mailing address specified above.

**FOR FURTHER INFORMATION CONTACT:** Thomas Warren or Sarah McLaughlin, 978-281-9260; Carrie Soltanoff, 301-427-8503.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the

authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations. The current baseline U.S. BFT quota and subquotas were established and analyzed in the BFT quota final rule (80 FR 52198, August 28, 2015). NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

#### Background

BFT fishing is managed domestically through a quota system (on a calendar-year basis), in conjunction with other management measures including gear restrictions, minimum fish sizes, closed areas, trip limits, and catch shares. NMFS implements the ICCAT U.S. quota recommendation, and divides the quota among U.S. fishing categories (*i.e.*, the General, Angling, Harpoon, Purse Seine, Longline, and Trap categories) and the Reserve category. Quotas are distributed on an annual basis, but NMFS also has the regulatory authority to make inseason adjustments to BFT quotas after the initial annual allocations, if the U.S. baseline quota increases as a result of an ICCAT recommendation or as a result of a transfer of quota from the Reserve category in accordance with specific regulatory determination criteria.

Vessels fishing with pelagic longline gear, which catch BFT incidentally while fishing for target species (primarily swordfish and yellowfin tuna), hold limited access Atlantic Tunas Longline permits and utilize Longline category quota. Through Amendment 7, NMFS established the IBQ Program, a catch share program that identified 136 permit holders as IBQ share recipients based on specified criteria, including historical target species landings and the bluefin catch-