

Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202-2466.

Copies of the documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 8, Air Program, 999 18th Street, suite 500, Denver, Colorado 80202-2466.

**FOR FURTHER INFORMATION CONTACT:** Tim Russ, Air Program (8P2-A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, ph. (303) 312-6479.

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: October 3, 1997.

**William P. Yellowtail,**

*Regional Administrator, Region VIII.*

[FR Doc. 97-32645 Filed 12-12-97; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[ND-001-0003b; FRL-5933-9]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; North Dakota; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve the North Dakota plan for implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines at 40 CFR part 60, subpart Cc, which was required pursuant to section 111(d) of the Clean Air Act (Act). The State's plan, which was submitted to EPA on September 11, 1997, establishes performance standards for existing MSW landfills and provides for the implementation and enforcement of those standards.

In the final rules section of this **Federal Register**, the EPA is approving the State's submittal in a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated

and the direct final rule will become effective. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Comments on this proposed rule must be received in writing by January 14, 1998.

**ADDRESSES:** Written comments on this action should be addressed to Vicki Stamper, 8P2-A, at the EPA Region VIII Office listed. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2466; and the North Dakota Department of Health, Division of Environmental Engineering, 1200 Missouri Avenue, room 304, Box 5520, Bismarck, North Dakota 58506-5520.

**FOR FURTHER INFORMATION CONTACT:** Vicki Stamper, EPA Region VIII, (303) 312-6445.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final action which is located in the rules section of this **Federal Register**.

Dated: October 24, 1997.

**William P. Yellowtail,**

*Regional Administrator, Region VIII.*

[FR Doc. 97-32639 Filed 12-12-97; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Part 195

[Docket No. RSPA-97-2362; Notice 1]

RIN 2137-AD06

#### Pipeline Safety: Incorporation by Reference of Industry Standard on Leak Detection

**AGENCY:** Research and Special Programs Administration (RSPA).

**ACTION:** Correction to RIN number.

**SUMMARY:** This document corrects the RIN number of the Notice of Proposed Rulemaking [Docket RSPA-97-2362; Notice 1], published in the **Federal Register** on October 29, 1997 (62 FR 56141). In the document heading on page 56141, the RIN number "RIN

2137-AD05" is changed to read "RIN 2137-AD06." The notice proposes to adopt as a referenced document an industry publication for pipeline leak detection, API 1130, "Computational Pipeline Monitoring."

**FOR FURTHER INFORMATION CONTACT:** Lloyd Ulrich, (202) 366-4556.

Issued in Washington, DC on December 9, 1997.

**Richard B. Felder,**

*Associate Administrator for Pipeline Safety.*

[FR Doc. 97-32624 Filed 12-12-97; 8:45 am]

BILLING CODE 4910-60-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 971201282-7282-01; I.D. 102897B]

RIN 0648-AK38

#### Halibut Fisheries in U.S. Convention Waters Off Alaska; Fisheries of the Exclusive Economic Zone Off Alaska; Management Measures to Reduce Seabird Bycatch in the Hook-and-Line Halibut and Groundfish Fisheries

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations that would require operators of vessels fishing for Pacific halibut in U.S. Convention waters off Alaska to conduct fishing operations in a specified manner and to employ specified measures intended to reduce seabird bycatch and incidental seabird mortality. This rule would also amend the regulations requiring seabird bycatch avoidance measures in the hook-and-line groundfish fisheries of the Bering Sea and Aleutian Islands (BSAI) and the Gulf of Alaska (GOA) to clarify one of the measures. The proposed halibut fisheries measures are intended to mitigate interactions with the short-tailed albatross (*Diomedea albatrus*), an endangered species protected under the Endangered Species Act (ESA), and with other seabird species in fisheries in and off Alaska.

**DATES:** Comments must be received by January 14, 1998.

**ADDRESSES:** Comments should be sent to Chief, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668,

Juneau, AK 99802, Attn: Lori J. Gravel, or delivered to Room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for the regulatory amendment may be obtained from NMFS at the above address, or by calling the Alaska Region, NMFS at 907-586-7228.

**FOR FURTHER INFORMATION CONTACT:** Kim S. Rivera, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The U.S. groundfish fisheries of the GOA and the BSAI in the exclusive economic zone are managed by NMFS under the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs). The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 773 *et seq.*, 1801 *et seq.*; Magnuson-Stevens Act) and are implemented by regulations for the U.S. fisheries at 50 CFR part 679. General regulations that also pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. The Northern Pacific Halibut Act of 1982 (Halibut Act), 16 U.S.C. 773 *et seq.*, authorizes the Council to develop and NMFS to implement regulations concerning halibut that are in addition to, and not in conflict with, regulations adopted by the International Pacific Halibut Commission (IPHC). Furthermore, the Magnuson-Stevens Act and the Halibut Act authorize the Council and NMFS to make regulatory changes that are consistent with the FMPs and that are necessary to conserve and manage the fixed gear Pacific halibut fisheries.

### Background

The issue of seabird bycatch and incidental mortality in commercial fishing operations has been heightened in recent years. Further information on this issue was provided in the preambles to the proposed and final rules implementing seabird avoidance measures in the GOA and BSAI hook-and-line groundfish fisheries (62 FR 10016, March 5, 1997; 62 FR 23176, April 29, 1997), and the EA/RIR/IRFA prepared for that action. In addition, the United States is working with the United Nations' Food and Agriculture Organization to conduct a technical consultation on implementing mitigation measures to reduce seabird bycatch in longline fisheries around the world (62 FR 42766, August 8, 1997).

NMFS and the U.S. Fish & Wildlife Service (USFWS) are the U.S. co-leaders in this effort.

Recent takes of the endangered short-tailed albatross (two in 1995 and one in 1996) in hook-and-line groundfish fisheries in the BSAI and the GOA highlight a seabird bycatch problem. At its December 1996 meeting, the Council voted unanimously to recommend that all hook-and-line vessels fishing for groundfish in the GOA and BSAI be required to use certain seabird bycatch avoidance measures intended to reduce the incidental mortality of the short-tailed albatross and other seabird species. Furthermore, the Council recommended that these or similar measures be implemented in the Pacific halibut fishery in U.S. Convention waters off Alaska. Addressing a potential seabird bycatch problem in the Pacific halibut fishery is warranted given the similarities between the Pacific halibut fishery and the hook-and-line groundfish fisheries. At its annual meeting in January 1997, the IPHC reviewed and concurred with the development of seabird avoidance measures for the Pacific halibut fishery in U.S. Convention waters off Alaska.

A proposed rule that would implement seabird avoidance measures in the Alaska groundfish hook-and-line fisheries was published in the **Federal Register** on March 5, 1997 (62 FR 10016) and public comments were accepted through March 20, 1997. Final regulations were published April 29, 1997 (62 FR 23176). At its June 1997 meeting, the Council recommended extending the seabird avoidance requirements in the Alaska groundfish hook-and-line fisheries to the Pacific halibut fishery in U.S. Convention waters off Alaska. The Council also recommended that vessels less than 26 ft (7.9 m) length overall (LOA) in the Pacific halibut fishery and in the GOA and BSAI groundfish hook-and-line fisheries be exempt from some of the specified seabird avoidance measures.

### Proposed Seabird Bycatch Avoidance Gear and Methods in the Pacific Halibut Fishery

The following proposed measures would apply to vessels fishing for Pacific halibut with hook-and-line gear in U.S. Convention waters off Alaska and are not intended to differ from measures implemented for the GOA and BSAI groundfish fisheries.

1. All applicable hook-and-line fishing operations:

a. Must use hooks that, when baited, sink as soon as they are put in the water. This could be accomplished by the use

of weighted groundlines and/or thawed bait;

b. If offal is discharged while gear is being set or hauled, it must be discharged in a manner that distracts seabirds from baited hooks, to the extent practicable. The discharge site on board a vessel must either be aft of the hauling station or on the opposite side of the vessel from the hauling station; and

c. Must make every reasonable effort to ensure that birds brought aboard alive are released alive and that, wherever possible, hooks are removed without jeopardizing the life of the bird.

2. All vessels greater than or equal to 26 ft (7.9 m) LOA and using hook-and-line gear must employ one or more of the following seabird avoidance measures:

a. Set gear between hours of nautical twilight (as specified in paragraph (e)(2)(iv)(D) of this section) using only the minimum vessel's lights necessary for safety;

b. Tow a streamer line or lines during deployment of gear to prevent birds from taking hooks;

c. Tow a buoy, board, stick or other device during deployment of gear at a distance appropriate to prevent birds from taking hooks. Multiple devices may be employed; or

d. Deploy hooks underwater through a lining tube at a depth sufficient to prevent birds from settling on hooks during deployment of gear.

This proposed rule would also remove a regulation at 50 CFR 679.24(e)(1)(ii) that effectively exempts halibut fishermen from having to use seabird avoidance gear and methods. When the seabird avoidance measures were promulgated for the Alaska groundfish fisheries, halibut fishermen were exempt until the Council and the IPHC could address this issue in the Pacific halibut fishery. This exemption would no longer be appropriate if NMFS approves this proposed rule.

### Exemption for Operators of Small Vessels in the Pacific Halibut Fishery and the Alaska Groundfish Hook-and-Line Fisheries

Vessels less than 26 ft (7.9 m) LOA using hook-and-line gear in the Pacific halibut fishery and vessels less than 26 ft (7.9 m) LOA using hook-and-line gear in the groundfish fisheries in the BSAI or GOA would be required to comply with the above measures 1a through 1c, but would not be required to comply with measure 2.

Relatively little scientific information is available regarding the relationship of vessel size to seabird bycatch. One study of an experimental hake longline fishery off South Africa noted that

variations in the numbers of observed seabird catches appeared to be related, at least in part, to the extent to which birds congregate around vessels. This, in turn, appeared to be a function of the length of time during which offal is discarded. Smaller vessels may not attract scavenging seabirds to as great an extent as do large vessels, which provide a continuous supply of food. For example, smaller vessels fishing off the southwest cape in South Africa do not attract large numbers of scavenging birds because hauling and setting periods are much shorter and irregular, and the offal is available to birds only for short periods and in small quantities.

Public testimony at the Council meeting in June 1997 supported exempting small vessels from some of the avoidance measures. Representatives of fishing vessel associations testified that fishing practices of vessels less than 26 ft (7.9 m) LOA did not warrant the more extensive measures that are required under the current groundfish regulations, primarily because such vessels typically (1) use baited hooks that sink as soon as they enter the water; (2) use anchored groundlines; (3) deploy snap-on gear which adds weight to the groundline; (4) deploy gear at slow speeds, allowing the gear to sink immediately; (5) have minimal freeboard at the stern, reducing the exposure of baited hooks to seabirds; (6) use offal discharge in smaller quantities and more sporadically relative to larger vessels, thus providing less of an attraction to seabirds; and (7) fish in nearshore areas where the likelihood of encountering the short-tailed albatross and other pelagic seabirds is minimal. Small vessels using snap-on gear are less likely to have a seabird bycatch problem because of the weight of the snaps and the slow speed at which gear is deployed, both factors that contribute to the baited hooks sinking immediately upon gear deployment. Using snap-on gear requires attachment of gangions manually to the groundline as it is being deployed, so the vessel must deploy gear at slower speeds than when using conventional gear. The vessel length criterion of 26 ft (7.9 m) LOA was chosen because vessels of this size represent the typical skiff fleet. In 1996, of the 2,124 vessels that made landings in the halibut and sablefish fisheries, 328 were less than 26 ft (7.9 m) LOA (15 percent of the total number of vessels making halibut and sablefish landings). In 1996, of the 1,847 vessels issued Federal fisheries permits for the BSAI and GOA groundfish fisheries, 47 were

less than 26 ft (7.9 m) LOA (2.5 percent of the total number of vessels issued Federal fisheries permits in 1996).

#### **Proposed Amendment to Clarify Offal Discharge Requirement in the Alaska Groundfish Hook-and-Line Fisheries**

The final rule promulgating seabird avoidance regulations for the Alaska groundfish hook-and-line fisheries (62 FR 23176; April 29, 1997) requires that any discharge of offal from a vessel must occur in a manner that distracts seabirds, to the extent practicable, from baited hooks while gear is being set or hauled. Public comment received after the final rule was published indicated that some persons interpreted the regulation to require offal discharge during the setting or hauling of gear. This was not NMFS' intent. This proposed rule would amend § 679.24(e)(2)(ii) to state more clearly NMFS' intent that if offal is discharged while gear is being set or hauled, it must be discharged in a manner that distracts seabirds from baited hooks, to the extent practicable.

#### **Classification**

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared an IRFA as part of the RIR that describes the impact this proposed rule would have on small entities, if adopted. A copy of this analysis is available from NMFS (see ADDRESSES). Based on the analysis, it was determined that this proposed rule could have a significant negative economic impact on a substantial number of small entities. In 1996, 2,124 vessels landed halibut from U.S. Convention waters off Alaska. Of these vessels, 1,935 were less than 60 ft (18.3 m) LOA. NMFS does not have data indicating how many of these vessels are small entities, but it is reasonable to assume that most are small entities, and that all vessels under 60 ft are small entities.

The Regulatory Flexibility Act requires that the IRFA describe significant alternatives to the proposed rule that accomplish the stated objectives of the applicable statutes and that minimize any significant negative impact on small entities. Consistent with the stated statutory objectives, the IRFA must discuss significant alternatives to the proposed rule, such as (1) establishing different reporting requirements for small entities that take into account the resources available to small entities; (2) consolidating or simplifying reporting requirements; (3) using performance rather than design standards; and (4) allowing regulatory

exemptions for small entities. Alternatives that addressed modifying reporting requirements for small entities were not considered by the Council or in this analysis. Such alternatives are irrelevant to this proposed action and would not mitigate the impacts on small entities. The proposed seabird avoidance measures are based on performance standards rather than on design standards, therefore alleviating a potential economic burden to small entities. The exemption for vessels less than 26 ft (7.9 m) LOA (all small entities) in the proposed rule would also alleviate a potential economic burden to small entities. In 1996, of the 2,124 vessels that made landings in the halibut and sablefish fisheries, 328 were less than 26 ft (7.9 m) LOA (15 percent of total number of vessels making halibut and sablefish landings). In 1996, of the 1,847 vessels that were issued Federal fisheries permits for the BSAI and GOA groundfish fisheries, 47 were less than 26 ft (7.9 m) LOA (2.5 percent of 1996 Federal fisheries permittees).

A variety of alternatives that would achieve this action's goal while minimizing economic impacts were considered. To provide maximum flexibility to participants in the fishery these alternatives are included in the proposed rule as options from which a vessel operator may choose in deciding how to comply with this proposed rule. Consequently, there are no additional alternatives that would mitigate the economic impact while achieving this action's purpose that can be discussed in this section. The economic impacts of this proposed rule would vary depending on which seabird avoidance measures a fisherman employs. The cost of buoys and bird streamer lines as seabird bycatch avoidance devices range from \$50 to \$250 per vessel. A lining tube is a technology used in fisheries of other nations to deploy baited hooks underwater to avoid birds and is offered as a possible option. NMFS anticipates that the operators of smaller vessels (less than 60 ft (18.3 m)) would choose an avoidance measure other than a lining tube, which could cost as much as \$35,000 per vessel. There were 189 hook-and-line vessels equal to or greater than 60 ft (18.3 m) that made halibut landings in 1996.

Although this action could result in economic impacts on small entities, the status quo alternative could result in even more severe economic impacts. Failure to establish seabird avoidance measures proposed under this action could increase the likelihood of exceeding the incidental take limit to be specified for the short-tailed albatross. In that event, additional measures to

minimize the take of short-tailed albatross could be implemented, ranging from those proposed in this rule to additionally more stringent measures, including closures. The economic impacts to small entities resulting from such measures would depend on a variety of factors, although very significant negative impacts could be expected if the halibut fishery were closed due to the take of short-tailed albatross in excess of the incidental take authorized under the section 7 consultation with the USFWS.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: December 9, 1997.

**Gary Matlock,**

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

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

**PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.24, paragraph (e)(1)(ii) is removed, paragraphs (e)(1)(i), (e)(2)(iv) introductory text, and (e)(2)(iv)(A) through (e)(2)(iv)(D) are redesignated as paragraphs (e)(1), (e)(3) introductory text, and (e)(3)(i) through (e)(3)(iv), respectively, and redesignated paragraphs (e)(1) and (e)(3) introductory text and paragraph (e)(2)(ii) are revised to read as follows:

**§ 679.24 Gear limitations.**

\* \* \* \* \*

(e) *Seabird avoidance gear and methods for hook-and-line vessels fishing for groundfish—(1)*

*Applicability.* The operator of a vessel that is required to obtain a Federal fisheries permit under § 679.4(b)(1) must comply with the seabird avoidance measures in paragraphs (e)(2) and (e)(3) of this section while fishing for groundfish with hook-and-line gear in the BSAI, in the GOA, or in waters of the State of Alaska that are shoreward of the BSAI and the GOA.

(2) \* \* \*

(ii) If offal is discharged while gear is being set or hauled, it must be discharged in a manner that distracts seabirds from baited hooks, to the extent practicable. The discharge site on board a vessel must be either aft of the hauling

station or on the opposite side of the vessel from the hauling station.

\* \* \* \* \*

(3) For a vessel greater than or equal to 26 ft (7.9 m) LOA, the operator of that vessel described in paragraph (e)(1) of this section must employ one or more of the following seabird avoidance measures:

\* \* \* \* \*

3. In § 679.42, paragraph (b) is revised to read as follows:

**§ 679.42 Limitations on use of QS and IFQ.**

\* \* \* \* \*

(b) *Gear.* (1) *IFQ Fisheries* Halibut IFQ must be used only to harvest halibut with fishing gear authorized in § 679.2. Sablefish fixed gear IFQ must not be used to harvest sablefish with trawl gear in any IFQ regulatory area, or with pot gear in any IFQ regulatory area of the GOA.

(2) *Seabird avoidance gear and methods.* The operator of a vessel using gear authorized at § 679.2 while fishing for IFQ halibut or hook-and-line gear while fishing for IFQ sablefish must comply with requirements for seabird avoidance gear and methods set forth at § 679.24(e).

\* \* \* \* \*

[FR Doc. 97-32682 Filed 12-12-97; 8:45 am]

BILLING CODE 3510-22-F

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 971208298-7298-01; I.D. 112097B]

**Groundfish Fishery of the Bering Sea and Aleutian Islands; Fisheries of the Exclusive Economic Zone; Proposed 1998 Harvest Specifications for Groundfish**

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

**ACTION:** Proposed 1998 harvest specifications for groundfish and associated management measures; request for comments.

**SUMMARY:** NMFS proposes 1998 harvest specifications, prohibited species bycatch allowances, and associated management measures for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits and associated management measures for groundfish

for the 1998 fishing year. The intended effect of this action is to conserve and manage the groundfish resources in the BSAI and to provide an opportunity for public participation in the annual groundfish specification process.

**DATES:** Comments must be received by January 12, 1998.

**ADDRESSES:** Comments must be sent to the Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel.

The preliminary 1998 Stock Assessment and Fishery Evaluation (SAFE) report, dated September 1997, is available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510-2252 (907-271-2809).

**FOR FURTHER INFORMATION CONTACT:** Alan Kinsolving 907-586-7228.

**SUPPLEMENTARY INFORMATION:**

**Background**

Groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR part 679 that implement the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Island Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the Magnuson-Stevens Fishery Conservation and Management Act.

The FMP and implementing regulations require NMFS, after consultation with the Council, to specify annually the total annual catch (TAC) for each target species and the "other species" category, the sum of which must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (§ 679.20(a)(1)(i)). Regulations under § 679.20(c)(1) further require NMFS to publish annually and solicit public comment on proposed annual TACs, prohibited species catch (PSC) allowances, seasonal allowances of the pollock TAC, and amounts for the pollock and sablefish Community Development Quota (CDQ) reserve. The proposed specifications set forth in tables 1-6 of this proposed rule satisfy these requirements. For 1998, the sum of proposed TAC amounts is 2,000,000 mt. Under § 679.20(c)(3), NMFS will publish the final annual specifications for 1998 after considering (1) comments received within the comment period (see **DATES**) and (2) consultations with the Council at its December 1997 meeting.

Section 679.20(c)(2)(ii) require that interim specifications—one-fourth of each proposed initial TAC (ITAC)