

in these services will be required to demonstrate that they meet the criteria set forth in quality as small businesses. See generally 47 CFR Part 1, Subpart Q (competitive bidding proceedings). Any small business applicant wishing to avail itself of small business provisions will need to make the general financial disclosures necessary to establish that the small business is in fact small.

15. If this occurs, prior to auction each small business applicant will be required to submit an FCC Form 175, OMB Clearance Number 3060-0600. The estimated time for filling out an FCC Form 175 is 45 minutes. In addition to filing an FCC Form 175, each applicant must submit information regarding the ownership of the applicant, any joint venture arrangements or bidding consortia that the applicant has entered into, and financial information which demonstrates that a small business wishing to qualify for installment payments and bidding credits is a small business. Applicants that do not have audited financial statements available will be permitted to certify to the validity of their financial showings. While many small businesses have chosen to employ attorneys prior to filing an application to participate in an auction, the rules are proposed so that a small business working with the information in a bidder information package can file an application on its own. When an applicant wins a license, it will be required to submit an FCC Form 494 (common carrier) or FCC Form 402 (private radio), which will require technical information regarding the applicant's proposals for providing service. This application will require information provided by an engineer who will have knowledge of the systems design. (Also, the Commission is currently developing a single, consolidated MAS form, FCC Form 415, which will eventually supersede both Form 494 and Form 402.)

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

16. None.

*G. Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives*

17. The NPRM solicits comment on a variety of proposals, some of which are described below. Any significant alternatives presented in the comments will be considered. As noted, we have requested comment regarding the establishment of a small business definition for MAS. We also seek comment generally on the existence of small entities in MAS and how many total entities, existing and potential, would be affected by the proposed rules in the NPRM. Finally, we request that each commenter identify whether it is a "small business" under either of the two SBA definitions described *supra*—either employing fewer than 1,500 employees (for radiotelephone communications companies) or having annual receipts of \$5 million or less (for telegraph or other message communications companies).

18. The Commission expects that licensing subscriber-based MAS bands by geographic area, as proposed, will assist small

businesses. As described *supra*, such licensing makes expansion of operations easier, and this flexibility assists all licenses, including small business licensees. We also believe that the proposed EA geographic area service area is large enough to support the services contemplated while being small enough to be attractive to small business entities. The NPRM also proposes a purely private allocation for licenses using MAS solely for internal uses. In addition, the proposed flexible approach to the build-out of MAS systems will assist licensees, including small business licensees, in designing and implementing their particular business plans, while the partitioning and disaggregation proposals will assist those small businesses that might otherwise be unable to acquire a "full" license as currently configured. Finally, we believe that the proposed spectrum auction will assist small entities desiring to obtain MAS licenses. This approach gets licenses to those most likely to use them most effectively. By contrast, when awarding licenses by lotteries it is only coincidental when the license is awarded to the entity best suited to using the license. Using lotteries, therefore, creates uncertainty for all would-be licensees, including those that are small business. We seek comment on all proposals and alternatives described in the NPRM, and the impact that such proposals and alternatives might have on small entities.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[I.D. 021197C]

#### International Code of Conduct for Responsible Fisheries; Second Draft Implementation Plan

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** NMFS announces the availability of a second Draft Implementation Plan (Plan) for the Code of Conduct for Responsible Fisheries (Code) and invites review and comment. The purpose and intended effect of this action is to improve the document and inform the public of its content.

**DATES:** Comments should be submitted on or before April 28, 1997.

**ADDRESSES:** Send comments to Matteo Milazzo, International Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Matteo Milazzo, 301-713-2276.

**SUPPLEMENTARY INFORMATION:** On July 25, 1996, NMFS announced the availability of an initial Plan for the Code in the Federal Register (61 FR 38703) and requested comments by September 23, 1996. At the close of this period, it became clear that several of the public comments raised substantive issues. During the same period, two other relevant developments took place. First, the Congress passed numerous and significant amendments to the Magnuson-Stevens Fishery Conservation and Management Act in the form of the Sustainable Fisheries Act (SFA) and, second, NOAA/NMFS moved into the final and substantive phase of its long-term program planning exercise, the NMFS Fisheries Strategic Plan.

The requirements of the SFA and the Strategic Plan point in the same directions as the Code. In effect, NMFS will implement the Code domestically as it carries out its Congressionally mandated responsibilities and the objectives of the Strategic Plan. Accordingly, NMFS has redrafted the Plan, taking into account (1) the comments received on the first draft; (2) the guidance provided by Congress in the Sustainable Fisheries Act; and (3) the long-term program planning that is being developed through the NMFS Fisheries Strategic Plan.

With this notice, NMFS notifies the public of the second draft's availability for comment. It includes the Agency's definition of a sustainable fishery, i.e., one in which the rate or level of fishing mortality does not jeopardize the capacity of the fishery to produce the maximum sustainable yield on a continuing basis.

For further background and rationale for the Plan, please refer to the notice of availability published on July 25, 1996.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 6, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

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#### 50 CFR Part 630

[I.D.030597B]

#### Atlantic Tuna Fisheries; Public Hearings

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