

motherboards after importation. The scope of this order does not include DRAMS or memory modules that are re-imported for repair or replacement.

The DRAMS subject to this order are currently classifiable under subheadings 8542.21.8005 and 8542.21.8020 through 8542.21.8030 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The memory modules containing DRAMS from the ROK, described above, are currently classifiable under subheadings 8473.30.10.40 or 8473.30.10.80 of the HTSUS. Removable memory modules placed on motherboards are classifiable under subheadings 8471.50.0085, 8517.30.5000, 8517.50.1000, 8517.50.5000, 8517.50.9000, 8517.61.0000, 8517.62.0010, 8517.62.0050, 8517.69.0000, 8517.70.0000, 8517.90.3400, 8517.90.3600, 8517.90.3800, 8517.90.4400, 8542.31.00, 8542.32.0001, 8542.32.0020, 8542.32.0021, 8542.32.0022, 8542.32.0023, 8542.33.0000, 8542.39.0000, and 8543.89.9600 of the HTSUS.

#### Scope Rulings

On December 29, 2004, the Department received a request from Cisco Systems, Inc. ("Cisco"), to determine whether removable memory modules placed on motherboards that are imported for repair or refurbishment are within the scope of the *CVD Order*. See *Notice of Countervailing Duty Order: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 47546 (August 11, 2003) ("*CVD Order*"). The Department initiated a scope inquiry pursuant to 19 CFR 351.225(e) on February 4, 2005. On January 12, 2006, the Department issued a final scope ruling, finding that removable memory modules placed on motherboards that are imported for repair or refurbishment are not within the scope of the *CVD Order* provided that the importer certifies that it will destroy any memory modules that are removed for repair or refurbishment. See Memorandum from Stephen J. Claeys to David M. Spooner, regarding Final Scope Ruling, Countervailing Duty Order on DRAMS from the Republic of Korea (January 12, 2006).

#### Period of Review

The period for which we are measuring subsidies, *i.e.*, the period of review ("POR"), is January 1, 2004, through December 31, 2004.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this

administrative review are addressed in the February 7, 2007, *Issues and Decision Memorandum for the Final Results in the Second Administrative Review of the Countervailing Duty Order on Dynamic Random Access Memory Semiconductors from the Republic of Korea* ("*Decision Memorandum*") from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Department's Central Records Unit, Room B-099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

#### Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we calculated an individual subsidy rate for the producer/exporter, Hynix. For the period January 1, 2004, through December 31, 2004, we find the *ad valorem* net subsidy rate for Hynix is 31.86 percent.

#### Assessment Rates

The Department will instruct CBP to liquidate shipments of DRAMS by Hynix entered or withdrawn from warehouse, for consumption from January 1, 2004, through December 31, 2004, at 31.86 percent *ad valorem* of the entered value.

#### Cash Deposits

The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties at 31.86 percent *ad valorem* of the entered value on all shipments of the subject merchandise from Hynix, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

We will instruct CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific rate applicable to the company. The Department has previously excluded Samsung Electronics Co., Ltd. from this order. See *Notice of Amended Final Affirmative Countervailing Duty*

*Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 44290 (July 28, 2003). Thus, the "all others" rate shall apply to all non-reviewed companies until a review of a company assigned this rate is requested.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with section 751(a)(1) of the Act.

Dated: February 7, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

#### Appendix I

##### Comments in the Issues and Decision Memorandum

*Comment 1:* Benefit to Hynix of the 2004 Cash Buyout Program.

*Comment 2:* The Department's Failure to Investigate Thoroughly the GOK's Entrustment or Direction of Hynix's Creditors in Connection with the CBO Components of the Non-Memory Asset Sale.

*Comment 3:* Entrustment or Direction of Hynix's Creditors in Connection with the Tranche A Acquisition Financing and CBO Components of the Non-Memory Asset Sale.

*Comment 4:* Whether the Department Should Have Investigated Hynix's Sale of Its LCD and Non-Memory Assets.

*Comment 5:* Uncreditworthy Benchmark Interest/Discount Rate.

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BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 020707B]

#### National Standard 1 Guidelines; Notice of Intent to Prepare an Environmental Impact Statement

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

**ACTION:** Notice of intent (NOI) to prepare an environmental impact statement

(EIS); request for comments; notice of a public scoping meeting.

**SUMMARY:** NMFS announces its intent to prepare an EIS and commencement of a scoping period in accordance with the National Environmental Policy Act (NEPA) of 1969 to analyze alternatives for guidance regarding annual catch limit (ACL) and accountability measures (AM) and other overfishing provisions of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA). Such guidance would be added to the National Standard 1 (NS1) guidelines.

**DATES:** Written comments must be received by April 2, 2007. A public scoping meeting will be held at the NMFS Silver Spring headquarters office on March 9, 2007 (see **ADDRESSES**) from 9a.m. through 3p.m.

**ADDRESSES:** The scoping meeting will be held at 1315 East-West Highway; Room 4527; Silver Spring, Maryland, 20910. NMFS may hold additional scoping meetings and informal public meetings during the scoping period.

You may submit comments on issues and alternatives, by any of the following methods:

- E-mail:

[annual.catch.limitDEIS@noaa.gov](mailto:annual.catch.limitDEIS@noaa.gov).

Include "Scoping comments on annual catch limit DEIS" in the subject line of the message.

- Fax: 301-713-1193.

- Mail: Mark Millikin; National Marine Fisheries Service, NOAA; 1315 East-West Highway; Silver Spring, Maryland 20910.

**FOR FURTHER INFORMATION CONTACT:** Mark Millikin, National Marine Fisheries Service, 301-713-2341.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

This **Federal Register** document is available on the Government Printing Office's website at: [www.gpoaccess.gov/fr/index/html](http://www.gpoaccess.gov/fr/index/html).

**Background**

The MSRA, signed into law by President Bush on January 12, 2007, set forth new requirements related to overfishing, including new ACL and AM provisions for federally managed fisheries in the U.S. exclusive economic zone (EEZ). NMFS is initiating this action to develop guidance related to these new provisions, specifically, requirements set forth under sections 103(b)(1) and (c)(3), 104(a)(10), (b), and (c) of the MSRA. NMFS intends to revise the National Standard 1 (NS1) Guidelines, 50 CFR 600.310, through a proposed and final rule to incorporate

guidance of these MSRA sections before the end of 2007. Because of potential policy implications of these MSRA provisions on Federal fishery management plans (FMPs and plans) and their stocks, NMFS has decided to issue this NOI. However, as it develops this action, NMFS will continue to re-evaluate the environmental review and analyses needed for NEPA purposes.

**Public Scoping Process**

To help determine the scope of issues to be addressed and to identify significant issues related to this action, NMFS is soliciting written comments on this NOI through April 2, 2007, and will hold a public scoping meeting at the NMFS Silver Spring Headquarters, Building III, Room 4527, 9a.m. through 3p.m. on March 9, 2007. After considering comments received during the scoping process, NMFS will either develop a draft environmental impact statement (DEIS) and proposed rule or an environmental assessment (EA) and proposed rule. If NMFS issues a DEIS, it will provide for a 45-day comment period concurrent with public hearings. If NMFS issues a DEIS, then it will also issue a final environmental impact statement (FEIS). Following an EIS or EA and proposed rule, NMFS will issue a final rule in the **Federal Register**.

**Magnuson-Stevens Act**

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) amended in 1996 by the Sustainable Fisheries Act, is the chief authority for fisheries management in the U.S. EEZ. The Act requires, among other things, achieving optimum yield on a continuing basis, preventing overfishing, and rebuilding overfished stocks in as short a time as possible. Section 301(a) of the Magnuson-Stevens Act contains 10 national standards (NS) with which all FMPs and their amendments and implementing regulations must be consistent. Section 301(b) requires that "the Secretary establish advisory guidelines (which shall not have the force and effect of law), based on the national standards to assist in the development of fishery management plans." Conforming to the NS guidelines (50 CFR part 600, subpart D) when preparing an FMP, FMP amendment and regulations is essential to properly addressing the intentions of Congress when it established and revised the Magnuson-Stevens Act. The NS guidelines, most notably NS1, are often cited in Court cases, and judges frequently refer to them when considering the merits of an FMP or FMP amendment and its regulations.

NS1 provides that "Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry." 16 U.S.C. 1851(a)(1). As this action focuses on MSRA's overfishing provisions, NMFS believes that it is appropriate to incorporate guidance on those provisions in the NS1 guidelines at 50 CFR 600.310.

Ending overfishing of stocks undergoing overfishing, preventing overfishing of stocks approaching overfishing, and rebuilding overfished stocks to levels of abundance that can produce maximum sustainable yield (MSY) on a continuing basis, are essential to achieving the objectives and goals of the Magnuson-Stevens Act. Ending overfishing is paramount to more rapid and more certain rebuilding. According to the NS1 guidelines, overfishing occurs whenever the annual fishing mortality rate (F) is greater than the maximum fishing mortality threshold (MFMT), 50 CFR 600.310(d)(2)(i). Continued overfishing will depress a stock, on average, below the level that can produce MSY. While some rebuilding of stock abundance can occur if F is slightly greater than MFMT, rebuilding rates are more rapid when overfishing does not occur, and rebuilding occurs faster, the more that F is reduced below MFMT.

*MSRA Section 104(a)(10): ACLs and AMs*

During the comment period on this NOI, and throughout development of this action, NMFS will seek input from the Councils and the public on implementation of the new MSRA overfishing provisions. To facilitate public comment in the following sections NMFS provides its preliminary interpretation of the new provisions, followed by an explanation of statutory deadlines and other timing considerations.

Section 104(a)(10) of the MSRA amends section 303(a) of the Magnuson-Stevens Act to require that any FMP shall "establish a mechanism for specifying annual catch limits in the plan (including a multi-year plan), implementing regulations and annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability." Species that have a life cycle of approximately 1 year (e.g., possibly some shrimp or squid species) are exempt from the requirements, unless the Secretary determines the species is undergoing overfishing. In addition, the ACL/AM requirements would not apply if "otherwise provided

for under an international agreement.” Thus, the ACL/AM requirements may be applicable for some species managed under international agreements.

Apart from the above exemptions, NMFS believes that section 104(a)(10) requires ACL/AM mechanisms for each federally-managed “stock or stock complex” contained in an FMP. Under the NS guidelines, “stock or stock complex” is used as a synonym for “fishery,” and is defined as “one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographic, scientific, technical, recreational, or economic characteristics...” (50 CFR 600.305(c)(12)).

NMFS understands an ACL to mean a specified amount of a fish stock (e.g., measure of weight or numbers of fish) for a fishing year that is a target amount of annual total catch that takes into account projected estimates for landings and discard mortality from all user groups and sectors. Per the MSRA, the ACL must be set “at a level such that overfishing does not occur in the fishery.” Under the NS1 guidelines, overfishing of the stock occurs when MFMT is exceeded (50 CFR 600.310(d)(2)(i)). Thus, it is important to clarify the relationship between the ACL and the MFMT. While the MFMT is expressed as a rate of fishing, NMFS may recommend that FMPs be amended so that annual catch levels corresponding to MFMT—an overfishing level (OFL)—are specified along with ACLs in comparable units (e.g., weight or numbers of fish) to ACLs, to facilitate subsequent monitoring against the ACL. The OFL would be the maximum amount of annual catch from all sources (landings and discard mortality from all sectors) which does not result in overfishing. Once the ACL is reached, or projected to be reached, AMs established in the FMP will ensure that overfishing does not occur, or is appropriately mitigated (e.g., through payback provisions).

NMFS believes that the extent of future management success using ACLs will depend largely upon ACLs being set sufficiently below the OFL for a fish stock, i.e., the size of the buffer needed between the OFL and ACL, to reduce the chance of exceeding the OFL. The types of ACLs used for a stock may vary depending upon the quality of data available for a fish stock and the fishery management goals. The size of the buffer needed between the ACL and OFL would depend upon quality of data available including: Knowledge of the stock’s life history; availability and accuracy of current fishing year

landings and historical landings data; accuracy and precision of fishery independent surveys; accuracy and precision of fishery dependent data; time since last stock assessment or update; frequency of stock assessments; discard mortality; recreational catches; and the extent of knowledge of the rate and magnitude of success or failure of recent management measures in ending or preventing overfishing for a fish stock. For discussion purposes in this NOI, “data poor stocks” are those stocks for which stock abundance is unknown or stock status with respect to overfishing and overfished is unknown. “Data rich” stocks are those for which annual catch values are known, and estimates of stock abundance or its proxy are available and sufficient to make overfishing and overfished status determinations. A broad gradation of data quality, quantity, and timeliness exists for various stocks which affects the accuracy and precision of “overfishing” and “overfished” status determinations.

With regard to “measures of accountability” (referred to herein as accountability measures or AMs) required by MSRA section 104(a)(10), NMFS’ initial interpretation is that they are part of the ACL mechanism and FMPs should contain AMs for each stock. AMs could also be used for each fishery sector. Because there are variances in: operation of fisheries, monitoring of a fishery within a fishing year, and availability of stock abundance information, it may not be feasible to set ACLs with the same level of precision for all stocks. AMs thus are intended to work with their associated ACLs to prevent overfishing of a stock from occurring. AMs could take the form of inseason management techniques that prevent the ACL from being exceeded in a given year (e.g., closures, or restrictions on retention of a stock), and/or corrective actions that will be implemented in subsequent fishing years to address overages of a stock’s OFL in previous fishing years (e.g., reduction of a subsequent year’s ACL), and to ensure that overfishing is ended.

*MSRA Section 103(b) and (c)(3):  
Scientific and Statistical Committees (SSCs)*

Section 103(b) of MSRA includes new provisions relating to SSCs and peer review processes. Among other things, it specifies that SSCs shall provide their Councils with “ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum

sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts on management measures, and sustainability of fishing practices.” Section 103(b) also provides for the establishment of peer review processes. With regard to ACLs, section 103(c)(3) provides that a Council shall “develop ACLs for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g).”

NMFS views these provisions as providing the SSCs or peer review processes with an important role in Council development of ACL mechanisms. NMFS would expect that SSCs or peer review processes would not only need to produce calculations of ACL and OFL, but also the probability that an ACL in combination with other factors such as retrospective patterns in stock assessments, e.g., overestimating stock abundance and underestimating actual fishing mortality rate (F), would or would not result in OFL being exceeded.

MSRA Section 104(c) revises the rebuilding provisions of section 304(e) of the Magnuson-Stevens Act to require that, when a Council is notified that a stock is overfished, the Council shall — within 2 years after such notification — submit and implement an FMP, FMP amendment, or proposed regulations to end overfishing “immediately,” and rebuild the overfished stock in as short a time as possible. NMFS’ preliminary review is that, because an FMP, FMP amendment, or regulations need to be implemented within 2 years of notification, a Council would need to submit the relevant action sufficiently in advance of the 2-year deadline (i.e., approximately one year and six months after notification) to ensure sufficient time (six months) for NMFS, on behalf of the Secretary, to finalize and implement the action.

**Statutory Deadlines and Other Timing Considerations**

Per MSRA section 104(b), the ACL and AM requirements take effect in fishing year 2010, for stocks determined by the Secretary to be undergoing overfishing. Thus, NMFS believes that the Councils and NMFS would have to plan to have ACL and AM mechanisms in place for all stocks in their FMPs that can be used beginning with the 2010 fishing year, because it is unknown what stocks NMFS will have determined as undergoing overfishing just before the beginning of the 2010

fishery year. Stocks not determined to be undergoing overfishing will need ACLs and AMs by the 2011 fishing year, including stocks with unknown or undefined status regarding overfishing (i.e., the new requirement applies also to data poor stocks).

MSRA section 104(c), which revises the requirements for rebuilding overfished fisheries, takes effect 30 months after the enactment of the MSRA, i.e., effective date of July 12, 2009. Thus, any fisheries determined to be overfished by the Secretary after that date would fall under the MSRA amendments to the rebuilding provisions of section 304(e)(3), instead of the current Magnuson-Stevens Act section 304(e)(3) provisions. Pursuant to the Magnuson-Stevens Act section 304(e)(3), within one year of being notified by NMFS, that a stock is overfished, a Council needs to prepare and submit an FMP, FMP amendment, or proposed regulations to rebuild the overfished stock and end overfishing. As discussed earlier, under the MSRA amendments to section 304(e)(3), within two years of being notified by NMFS, anytime on or after July 12, 2009, that a stock is overfished, a Council needs to prepare and NMFS needs to implement an FMP, FMP amendment, or proposed regulations to rebuild the overfished stock and end overfishing immediately.

NMFS intends to complete its revisions of the NS1 guidelines pertaining to this action before the end of 2007. Upon implementation of the final rule, NMFS will review each Council's current provisions for ACLs and AMs and recommend any revisions it deems are appropriate. Some FMPs may already contain management measures that will meet the definition (or forthcoming criteria) of ACLs and AMs. If not, the FMPs will need to be amended to establish or revise ACLs and associated AMs consistent with the MSRA requirement and revised NS1 guidelines, by the relevant statutory deadlines.

NMFS previously issued an advance notice of proposed rulemaking (68 FR 7492, February 14, 2003), and a proposed rule (70 FR 36240, June 22, 2005), to revise the NS1 guidelines. NMFS did not issue a final rule because it decided to wait to see if the Magnuson-Stevens Act would be reauthorized before revising the NS1 guidelines. This action is not expected to make the full set of revisions to the NS1 guidelines as was proposed in 2005, because of the urgency to establish guidance related to new provisions in the MSRA.

### Issues Under Consideration

In considering potential guidance related to MSRA's overfishing provisions, NMFS has identified the following list of issues related to ACLs, AMs, and overfishing. NMFS seeks public comment on the scope of this NOI generally and the list of issues and potential alternatives for this action set forth below.

#### Issues for Developing Guidance for ACLs and AMs

- The role of the SSC and other peer review processes in setting ACLs and AMs
  - The relationship between ACL and OY
  - Revision of existing overfishing definitions to include OFL
  - Variability in data currently available for each stock (e.g., data rich, data poor, and stocks with data quality falling between data rich and data poor)
    - Setting ACLs for stocks with unknown status
    - Circumstances in which a numerical ACL can not be set for a stock, and in such situations, recommendations for adequate and appropriate alternatives to setting a numerical ACL (e.g., prohibitions)
    - Setting ACLs for stock complexes, stock assemblages, and similar stock groupings
    - Variability in the accuracy of management approaches in achieving target fishing levels
    - Setting a buffer between ACL and OFL to prevent overfishing, and how to determine the size of the buffer needed
    - Establishing the appropriate probability that an ACL will prevent overfishing for a stock
    - Establishing recommendations for inseason management authority and methods to be used as AMs to prevent overfishing
    - Limiting the extent of overfishing, should it occur
    - Establishing corrective actions to ensure accountability in a subsequent year for an overage of the OFL for a stock in a previous year
    - Establishing AMs for various sectors of a stock, if an ACL is subdivided for a stock, and the need to still prevent exceeding the overall OFL for the stock
- Preliminary ACL and AM alternatives
- No action. Do not publish ACL and AM guidelines. Councils are statutorily required to implement ACLs and AMs, but the statute provides little specificity about the meaning of these terms. Without guidelines, Councils may develop and submit FMP amendments that the Secretary determines to be

inadequate. Secretarial disapproval of an FMP amendment will require the Council to modify their amendment and resubmit it, making it unlikely that measures can be implemented by the statutory deadline of 2010, for stocks subject to overfishing and 2011, for all other stocks.

- Alternative 2. Develop ACL and AM guidelines that provide performance standards that ACLs and AMs must meet, but do not provide guidance on specific mechanisms. Performance standards may be hard to develop, or it may be hard to adequately judge the degree to which proposed mechanisms will satisfy the performance standards.

- Alternative 3. Develop ACL and AM guidelines that provide performance standards that ACLs must meet, and develop ACL and AM guidelines that provide specific guidance on one or more mechanisms to implementing ACLs and AMs that NMFS considers to meet the statutory requirement and the standards for Secretarial approval.

### Special Accommodations

The public meeting to be held in NMFS Silver Spring headquarters on March 9, 2007, will be accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mark Millikin (301-713-2341), by March 4, 2007.

Dated: February 9, 2007.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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BILLING CODE 3510-22-S

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Information Collection; Submission for OMB Review, Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the "Corporation"), has submitted a public information collection request (ICR) entitled the Application for the President's Higher Education Community Service Honor Roll to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Pub. L. 104-13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and