(3) The good or service is procured through a competitive process;
(4) Existing or potential customers for the good or service other than the United States Government have been specifically identified;
(5) The long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and
(6) Private capital is at risk in the venture.

The purpose of this final rule is to reconcile the NFS with the statutory authority for Anchor Tenancy contracts.

The due date for public comments in response to the proposed rule was July 25, 2011. NASA received general comments in support of the rule from one respondent. The respondent expressed support for NASA’s rule, and noted that it reflects efforts aimed at achieving goals set forth in the Administration’s 2010 National Space Policy to support growth in the commercial space sector.

During the comment period, NASA recognized a need to clarify the rule. Consequently, minor changes have been made to the proposed rule in this final rule, as follows: The discussion of statutory authority has been consolidated and simplified; it is now discussed only in paragraph (a). The final rule identifies what is meant by an anchor tenancy whereas anchor tenancy was previously described in the background of the Federal Register Notice for the proposed rule.

B. Executive Orders 12866 and 13563

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, NASA determined that this rule is not excessively burdensome to the public, and is consistent with the administrative nature of rule. This is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

The final rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because it does not impose any new requirements on small entities. The rule clarifies NASA’s authority to enter into Anchor Tenancy contracts, under limited conditions.
FOR FURTHER INFORMATION CONTACT: Tom Kelly, Office of Enforcement and Program Delivery, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, by telephone at (202) 366–1812 or via email at Thomas.Kelly@dot.gov. Office hours are from 9 a.m. to 5 p.m. ET, Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Viewing Comments and Documents

To view comments, go to http://www.regulations.gov, FMCSA–2012–0156. If you do not have access to the internet, you may also view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

B. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

II. Background

On August 27, 2012, FMCSA published a DFR to amend the definition of “gross combination vehicle weight rating” (GCWR) in 49 CFR parts 383 and 390. The DFR provided that the rule would be effective October 26, 2012, if no adverse comments were received by September 26, 2012. In view of three adverse comments submitted to the docket, FMCSA withdraws the DFR through this notice.

Commenter John F. Nowak stated that the definition of GCWR should not be amended until the National Highway Traffic Safety Administration (NHTSA) changes its regulations to require manufacturers to include a vehicle’s GCWR in addition to its gross vehicle weight rating (GVWR) on the certification label. He argued that it was difficult at this time for drivers, motor carriers, and law enforcement officers to obtain GCWR information quickly. Mr. Nowak claimed that currently only the second half of the existing definition of GCWR is readily available for use by carrier and enforcement personnel. This commenter went on to say that because FMCSA must be aware of the difficulty in obtaining the manufacturer’s GCWR for any particular vehicle, the second sentence of the existing definition must be retained.

Currently, the definitions in 49 CFR 383.5 and 390.5 both define Gross combination weight rating (GCWR) as the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR \(^1\) of the power unit and the total weight of the towed unit and any load thereon.

Mr. Nowak agrees with FMCSA that the definition of GCWR should ultimately be changed to reflect NHTSA’s definition of that term. Prior to this change, however, he suggests that the FMCSA place the responsibility for obtaining GCWR information on law enforcement officers and refrain from taking adverse action against drivers or carriers for failure to have this information.

Commenter Bryce Baker indicates that manufacturers do not list the GCWR on the vehicle. Even if such a value is available from the manufacturer, he states, the time needed to obtain the information would make enforcement fruitless. Although commenter David S. McQueen also opposes the change included in the DFR, his position seems to be based on a misunderstanding of the GCWR definition used by the National Highway Traffic Safety Administration.

FMCSA Response: The comments submitted by these three individuals qualify as adverse. Therefore, under 49 CFR 389.39(d), FMCSA withdraws the direct final rule of August 27, 2012 (77 FR 51706).

Issued on: October 22, 2012.

Larry W. Minor, Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Footnote: 0907301205–0289–02]

RIN 0648–XC290

Fisheries of the Northeastern United States: Atlantic Herring Fishery; Adjustment to the Atlantic Herring Management Area 1A Sub-Annual Catch Limit

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS adjusts the 2012 fishing year sub-anual catch limit for Atlantic Herring Management Area 1A due to an under-harvest in the New Brunswick weir fishery. This action complies with the 2010–2012 specifications and management measures for the Atlantic Herring Fishery Management Plan.


SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch (ABC), annual catch limit (ACL), optimum yield (OY), domestic harvest and processing, U.S. at-sea processing, border transfer and sub-ACLs for each management area. The 2012 Domestic Annual Harvest was set as 91,200 metric tons (mt); the sub-ACL allocated to Area 1A for the 2012 fishing year (FY) was 26,546 mt and no herring catch was set aside for research in the 2010–2012 specifications (75 FR 48874, August 12, 2010). Due to an over-harvest in Area 1A in 2010, the FY 2012 sub-ACL in Area 1A was revised to 24,668 mt on March 24, 2012 (77 FR 10978, February 24, 2012). An additional 295 mt of the Area 1A sub-ACL is set aside for fixed gear fisheries west of Cutler, ME, until November 1, 2012, reducing the Area 1A sub-ACL to 24,373 mt. Due to the variability of Canadian catch in the New Brunswick weir fishery, a 3,000 mt portion of the 9,000 mt buffer between ABC and OY (the buffer to account for Canadian catch) is allocated