

currently foreclosed. In addition to procedural barriers to partitioning and disaggregation, the *NPRM* seeks comment on whether there are substantive barriers with respect to covered small carriers' ability to satisfy performance requirements applicable to the partitioned or disaggregated spectrum, and whether reduced construction obligations or extended performance deadlines could increase the number of covered small carriers that are willing and able to obtain spectrum through partitioning, disaggregation, or lease arrangements.

The *NPRM* seeks comment on these and any other relevant considerations regarding special conditions for covered small carriers that obtain access to spectrum through partition or disaggregation. Commenters should discuss in detail both the necessity and the likelihood of any such conditions resulting in increased spectrum availability for covered small carriers. Further, in light of the Section 616 requirement that the Commission consider the administrative feasibility of special conditions for covered small carriers, commenters should also discuss the costs and benefits of any conditions they advocate.

Incentives to Encourage Lease or Sale. The *NPRM* seeks comment on what, if any, incentives might be appropriate to encourage licensees to lease or sell spectrum to covered small carriers or unaffiliated carriers that will serve rural areas, including license term extensions or modified performance requirements. The *NPRM* seeks comment on whether the Commission's existing secondary markets rules are sufficiently flexible to provide adequate incentives for licensees to sell or lease their spectrum rights to covered small carriers or unaffiliated carriers that seek to provide service to rural areas. The *NPRM* asks commenters to discuss the effectiveness of existing benefits of sale or lease, and whether further incentives would be likely to encourage licensees to lease or sell spectrum. For example, the *NPRM* seeks comment on whether and how modified performance requirements or longer license terms might encourage more licensees to sell or lease their spectrum rights. The Commission asks commenters to discuss the incremental benefits of increasing the number of spectrum sales or leases relative to the potential collateral effects that such incentives may have. For example, while reduced buildout requirements may increase the number of licensees willing to lease spectrum, it may also decrease deployment of advanced wireless services in those license areas as a result of the reduced performance

requirements. The *NPRM* therefore seeks comment on the specific costs and benefits of any incentives that commenters advocate and the relative weight the Commission should apply in evaluating whether those incentives would be likely to result in increased availability of advanced telecommunications services in rural areas.

The *NPRM* also seeks comment on whether allowing spectrum "reaggregation" for spectrum that has been partitioned or disaggregated on the secondary market—up to the size of the original market area—would increase the incentives of parties to lease or sell spectrum in the first place, and thus ultimately meet the dual goals of increasing the availability of advanced telecommunications services in rural areas and facilitating access to spectrum by covered small carriers. Under the Commission's current rules, while licensees may partition and disaggregate their licenses through spectrum transactions, there is no provision for reaggregating spectrum, even when the partitioned or disaggregated portions of an original market area are acquired by a single entity. Holding multiple licenses for what was once a single license may impose certain regulatory and administrative burdens on licensees, including construction requirements, renewal showings, continuous service requirements, and the need to maintain up-to-date information in ULS. In the context of other proceedings, some parties have asked the Commission to allow reaggregation of spectrum to ease these burdens.¹⁶ The *NPRM* seeks comment on the relationship between reducing these burdens and incentivizing spectrum transactions.

If commenters advocate for incentives such as modified performance requirements, longer license terms, spectrum reaggregation, or another incentive, the Commission directs them to describe in detail how the incentive would likely increase the availability of advanced telecommunications services in rural areas or facilitate access to spectrum by covered small carriers. Further, in light of the Section 616 requirement that the Commission consider the administrative feasibility of providing incentives to lease or sell spectrum, commenters should also discuss the costs and benefits of any incentives they advocate.

¹⁶ See, e.g., Sprint Comments, WT Docket No. 10–112, at 19–20 (filed Aug. 6, 2010); AT&T Reply Comments, WT Docket No. 10–112, at 12 (filed Aug. 23, 2010).

II. Procedural Matters

Initial Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this document. We request written public comment on the IRFA. Comments must be filed in accordance with the same deadlines as comments filed in response to the *NPRM* as set forth on the first page of this document, and have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Initial Paperwork Reduction Act Analysis

The *NPRM* contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in this document, as required by PRA. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2019–06348 Filed 4–1–19; 8:45 am]

BILLING CODE 6712–01–P

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1603 and 1652

RIN 3206–AN56

Federal Employees Health Benefits Acquisition Regulations: Self Plus One and Contract Matrix Update

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing this

proposed rule to update its regulations concerning “self plus one” and the contract matrix. OPM is updating the Federal Employees Health Benefits Acquisition Regulations (FEHBAR) to include a recently added enrollment type called “self plus one” to the carrier advertising instructions and also provides notice to interested stakeholders that we are updating and clarifying the contract clause matrix.

DATES: OPM must receive comments by May 2, 2019.

ADDRESSES: You may submit comments identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Michael W. Kaszynski, Senior Policy Analyst, at Michael.Kaszynski@opm.gov or 202-606-1994.

SUPPLEMENTARY INFORMATION: This proposed regulation amends the FEHBAR to list a “self plus one” enrollment type in the carrier advertising instructions so that carriers will be required to list all current enrollment types when advertising their health plans enrollment codes and premium rates to enrollees. This change is a technical correction and does not alter current FEHB family member eligibility guidelines.

This proposed regulation also provides notice to interested stakeholders that we are updating and clarifying the contract clause matrix. Annually, OPM determines which FAR and FEHBAR contract clauses are applicable to FEHB carrier contracts and we include the appropriate clauses in the carrier contracts. We also publish clauses and clause headings in the FEHBAR in order to give the clauses legal regulatory authority. This gives new carriers joining the FEHB Program the benefit of seeing OPM’s required clauses in regulation for consideration prior to submitting an application for participation in the FEHB Program. This proposed regulation brings the contract clause matrix in line with the current Federal Acquisition Regulations (FAR) and FEHBAR contract clauses used in

all Federal Employees Health Benefits (FEHB) Program carrier contracts.

Section 706 of the Bipartisan Budget Act of 2013 amended chapter 89 of title 5 United States Code (U.S.C) by adding a self plus one enrollment type for Federal employees and annuitants under the FEHB Program. The self plus one enrollment type became available during the 2015 Open Season for the 2016 plan year and was codified in a final rule at <https://www.federalregister.gov/documents/2015/09/17/2015-23348/federal-employees-health-benefits-program-self-plus-one-enrollment-type>. A self plus one enrollment covers the enrollee and one eligible family member, designated by the enrollee. Eligible family members under a self plus one enrollment include a spouse or eligible child as set forth in § 890.302 of title 5 CFR.

OPM manages the FEHB program which is executed with contractors managing and providing the FEHB benefits to government employees. This rule proposes to update the Federal Employee Health Benefits Acquisition Regulations (FEHBAR) to implement the “self plus one” program via FEHB contracts, and make the FEHB contract clauses consistent with current FAR and FEHBAR clause requirements. Specifically, the regulation amends the FEHBAR at 48 CFR part 1603 to list a self plus one enrollment type in the advertising instructions. OPM considers this change a technical correction as it does not change the operational requirements of the FEHB program and does not alter current FEHB family member eligibility guidelines.

This regulation also provides notice to interested stakeholders that we are updating the contract clause matrix at 48 CFR 1652.370. This will bring the matrix in line with current FAR and FEHBAR contract clauses used in all FEHB Program carrier contracts. The matrix at FEHBAR section 1652.370 lists the FAR and FEHBAR clauses to be used in contracts based on cost analysis and contracts based on a combination of cost and price analysis. Carriers must comply with all matrix clauses during their participation in the FEHB Program. Certain contract clauses are mandatory for FEHB contracts and others are used only when made applicable by pertinent sections of the FAR or FEHBAR. This regulation updates the matrix to include all current contract clauses.

Regulatory Impact Analysis

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 also emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under E.O. 12866.

Reducing Regulation and Controlling Regulatory Costs

This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under E.O. 12866.

Regulatory Flexibility Act

The Office of Personnel Management certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of state, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of no agency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a

penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves an OMB approved collection of information subject to the PRA Health Benefits Election, SF 2809, OMB no. 3206–0160. The public reporting burden for this collection is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 9,000 hours. The systems of record notice for this collection is: OPM SORN GOVT–1 General Personnel Records and OPM SORN CENTRAL–18–Federal Employees Health Benefits Program Claims Data Warehouse.

List of Subjects in 48 CFR Parts 1603 and 1652

Government employees, Government procurement, Health insurance, Reporting and recordkeeping requirements.

Office of Personnel Management.
Alexys Stanley,
Regulatory Affairs Analyst.

Accordingly, OPM is proposing to amend title 48, Code of Federal

Regulations, parts 1603 and 1652 as follows:

PART 1603—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 1. The authority citation for part 1603 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 2. Section 1603.7002 paragraph (e) is revised to read as follows:

1603.7002 Additional guidelines.

* * * * *

(e) Not give instructions on enrollment. Statements on enrollment procedures, requirements, or eligibility shall be limited to those such as: To sign up, fill out a Health Benefits Election Form (Standard Form 2809) from your personnel office indicating the enrollment you want or use your agency’s electronic enrollment system:

The enrollment codes for (plan’s name) are:

Self Only _ Enrollment Code _
 Self Plus One _ Enrollment Code _
 Self and Family _ Enrollment Code _

The form must then be returned to your personnel office before the (date) deadline. Your (plan’s name) coverage will begin the first pay period in January, (year). If you are a retired Federal employee and need forms, contact the Office of Personnel Management, 1900 E Street NW, Attn:

Retirement Benefits Branch,
 Washington, DC 20415 or visit
www.opm.gov/forms.

PART 1652—CONTRACT CLAUSES

■ 3. The authority citation for part 1652 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 4. Section 1652.370 is revised as follows

1652.370 Use of the matrix.

(a) The matrix in this section lists the FAR and FEHBP clauses to be used with contracts based on cost analysis and contracts based on a combination of cost and price analysis. Carriers shall submit initial applications and requests for renewals on the basis that the new contract or contract renewal will include the clauses indicated.

(b) Certain contract clauses are mandatory for FEHBP contracts. Other clauses are to be used only when made applicable by pertinent sections of the FAR or FEHBP. An “M” in the “Use Status” column indicates that the clause is mandatory. An “A” indicates that the clause is to be used only when the applicable conditions are met.

(c) Clauses are incorporated in the contract either in full text or by reference. If the full text is to be used, the matrix indicates a “T”. If the clause is incorporated by reference, the matrix indicates an “R”.

FEHBP CLAUSE MATRIX

| Clause | Title | Use status | Use with experience rated contracts | Use with community rate contracts |
|---------------|---|------------|-------------------------------------|-----------------------------------|
| FAR 52.202–1 | Definitions | M | T | T |
| FAR 52.203–3 | Gratuities | M | T | T |
| FAR 52.203–5 | Covenant Against Contingent Fees | M | T | T |
| FAR 52.203–7 | Anti-Kickback Procedures | M | T | T |
| FAR 52.203–12 | Limitation on Payments to Influence Certain Federal Transactions. | M | T | T |
| FAR 52.203–13 | Contractor Code of Business Ethics and Conduct | M | T | T |
| FAR 52.203–17 | Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights. | M | T | T |
| FAR 52.203–19 | Prohibition Requiring Internal Confidentiality Agreements or Statements. | M | T | T |
| FAR 52.204–7 | System For Rewards Management | M | T | T |
| FAR 52.204–9 | Personnel Identity Verification of Contractor Personnel | M | T | T |
| FAR 52.204–21 | Basic Safeguarding of Contractor Information Systems | M | T | T |
| FAR 52.209–9 | Updates of Publically Available Information Regarding Responsibility Matters. | M | T | T |
| 1652.203–70 | Misleading, Deceptive, or Unfair Advertising | M | T | T |
| 1652.204–70 | Contractor Records Retention | M | T | T |
| 1652.204–71 | Coordination of Benefits | M | T | T |
| 1652.204–72 | Filing Health Benefit Claims/Court Review of Disputed Claims. | M | T | T |
| 1652.204–73 | Taxpayer Identification Number | M | T | T |
| 1652.204–74 | Large Provider Agreements | M | T | |

FEHBP CLAUSE MATRIX—Continued

| Clause | Title | Use status | Use with experience rated contracts | Use with community rate contracts |
|---------------|---|------------|-------------------------------------|-----------------------------------|
| FAR 52.209-6 | Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment. | M | T | T |
| FAR 52.215-2 | Audit & Records—Negotiation | M | T | T |
| FAR 52.215-10 | Price Reduction for Defective Cost or Pricing Data | M | T | |
| FAR 52.215-12 | Subcontractor Certified Cost or Pricing Data | M | T | |
| FAR 52.215-15 | Pension Adjustments and Asset Reversions | M | T | |
| FAR 52.215-18 | Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions. | M | T | |
| 1652.215-70 | Rate Reduction for Defective Pricing or Defective Cost or Pricing Data. | M | T | T |
| 1652.215-71 | Investment Income | M | T | |
| 1652.216-70 | Accounting and Price Adjustment | M | | T |
| 1652.216-71 | Accounting and Allowable Cost | M | T | |
| FAR 52.219-8 | Utilization of Small Business Concerns | M | T | T |
| FAR 52.222-1 | Notice to the Government of Labor Disputes | M | T | T |
| FAR 52.222-3 | Convict Labor | M | T | T |
| FAR 52.222-4 | Contract Work Hours and Safety Standards Act—Overtime Compensation. | M | T | T |
| FAR 52.222-21 | Prohibition of Segregated Facilities | M | T | T |
| FAR 52.222-26 | Equal Opportunity | M | T | T |
| FAR 52.222-29 | Notification of Visa Denial | A | T | T |
| FAR 52.222-35 | Equal Opportunity for Veterans | M | T | T |
| FAR 52.222-36 | Equal Opportunity for Workers With Disabilities | M | T | T |
| FAR 52.222-37 | Employment Reports on Veterans | M | T | T |
| FAR 52.222-50 | Combating Trafficking in Persons | M | T | T |
| FAR 52.222.54 | Employment Eligibility Verification | M | T | T |
| 1652.222-70 | Notice of Significant Events | M | T | T |
| FAR 52.223-6 | Drug-Free Workplace | A | T | T |
| FAR 52.223-18 | Encouraging Contractor Policies to Ban Text Messaging While Driving. | M | T | T |
| 1652.224-70 | Confidentiality of Records | M | T | T |
| FAR 52.227-1 | Authorization and Consent | M | T | T |
| FAR 52.227-2 | Notice and Assistance Regarding Patent and Copyright Infringement. | M | T | T |
| FAR 52.229-4 | Federal, State and Local Taxes (State and local Adjustments). | M | T | T |
| 1652.229-70 | Taxes—Foreign Negotiated Benefits Contracts | A | T | T |
| FAR 52.232-8 | Discounts for Prompt Payment | M | T | T |
| FAR 52.232-17 | Interest | M | T | T |
| FAR 52.232-23 | Assignment of Claims | A | T | T |
| FAR 52.232-33 | Payment by Electronic Funds Transfer—System for Awards Management. | M | T | T |
| 1652.232-70 | Payments—Community-Rated Contracts | A | | T |
| 1652.232-71 | Payments—Experience-Rated Contracts | A | T | |
| 1652.232-72 | Non-Commingling of FEHBP Funds | M | T | |
| 1652.232-73 | Approval for Assignment of Claims | M | T | T |
| FAR 52.233-1 | Disputes | M | T | T |
| FAR 52.233-4 | Applicable Law for Breach of Contract Claim | M | T | T |
| FAR 52.239-1 | Privacy or Security Safeguards | M | T | T |
| FAR 52.242-1 | Notice of Intent to Disallow Costs | M | T | |
| FAR 52.242-3 | Penalties for Unallowable Costs | M | T | |
| FAR 52.242-13 | Bankruptcy | M | T | T |
| 1652.243-70 | Changes—Negotiated Benefits Contracts | M | T | T |
| FAR 52.244-5 | Competition in Subcontracting | M | T | |
| FAR 52.244-6 | Subcontracts for Commercial Items | M | T | |
| 1652.244-70 | Subcontracts | M | T | |
| 1652.245-70 | Government Property (Negotiated Benefits Contracts) | M | T | T |
| FAR 52.246-25 | Limitation of Liability—Services | M | T | |
| 1652.246-70 | FEHB Inspection | M | T | T |
| FAR 52.247-63 | Preference for U.S.-Flag Air Carriers | M | T | T |
| 1652.249-70 | Renewal and Withdrawal of Approval | M | T | T |
| 1652.249-71 | FEHBP Termination for Convenience of the Government—Negotiated Benefits Contracts. | M | T | T |
| 1652.249-72 | FEHBP Termination for Default—Negotiated Benefits Contracts. | M | T | T |
| FAR 52.251-1 | Government Supply Sources | A | T | |
| FAR 52.252-4 | Alterations in Contract | A | T | T |
| FAR 52.252-6 | Authorized Deviations in Clauses | M | T | T |

[FR Doc. 2019-06223 Filed 4-1-19; 8:45 am]

BILLING CODE 6325-38-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

RIN 0648-B111

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 13

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

ACTION: Notice of availability; request for comments.

SUMMARY: The Gulf of Mexico (Gulf) and South Atlantic Fishery Management Councils (Councils) have submitted Amendment 13 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic (FMP), for review, approval, and implementation by NMFS. Amendment 13 would modify the applicable Federal regulations for the harvest of spiny lobster in the exclusive economic zone (EEZ) off Florida to be compatible with Florida regulations, and would re-establish a procedure for an enhanced cooperative management with Florida. The purpose of Amendment 13 is to more effectively manage and enforce the harvest of spiny lobster.

DATES: Written comments on Amendment 13 must be received on or before June 3, 2019.

ADDRESSES: You may submit comments on Amendment 13, identified by “NOAA-NMFS-2018-0088” 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-2018-0088, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

- *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 will generally be posted for public

viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), 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).

Electronic copies of Amendment 13 may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/amendment-13-modifications-spiny-lobster-gear-requirements-and-cooperative-management>. Amendment 13 includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, Southeast Regional Office, NMFS, telephone: 727-824-5305; email: Susan.Gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The FMP being revised by Amendment 13 was prepared by the Councils and implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

In the Gulf and South Atlantic, spiny lobster are harvested primarily off the coast of Florida. The original FMP, implemented in 1982, largely complemented Florida’s management regime and provided protection for the fishery throughout its range in the Gulf and the South Atlantic (47 FR 29202; July 2, 1982). The FMP adopted many of the management measures implemented by Florida to achieve its conservation and management objectives and effectively coordinate management with Florida. However, it was difficult to keep Federal regulations consistent with changing state regulations because Florida can adjust its management measures more quickly than the Councils and NMFS can change Federal regulations. As a result,

NMFS and the Councils developed Amendment 2 to the FMP (54 FR 48059; November 20, 1989), which established a procedure to allow Florida to directly propose to NMFS its state spiny lobster regulations for subsequent implementation in the EEZ off Florida. That procedure was developed to provide a more timely regulatory mechanism to implement compatible regulations and a more formal process for state and Federal coordination.

In 2017, representatives from the Florida Fish and Wildlife Conservation Commission contacted the NMFS Southeast Regional Office requesting that Federal regulations be aligned with Florida state regulations concerning requirements for spiny lobster bulley net gear and for daily commercial possession limits of spiny lobster harvested by bulley net or diving. However, NMFS determined that the previously established cooperative management procedure for the spiny lobster protocol established in Amendment 2 was removed in Amendment 10 to the FMP (76 FR 75488; December 2, 2011). Consequently, there is no procedure to implement regulations proposed by Florida without a plan amendment or framework to the FMP developed by the Council. These more lengthy processes are inconsistent with promoting compatible regulations for the fishery off Florida.

Actions Contained in Amendment 13

Amendment 13 includes measures to modify the Federal regulations for the harvest of spiny lobster that apply in the EEZ off Florida to be compatible with Florida regulations concerning bulley net gear requirements and commercial daily possession limits when using bulley nets or diving. These changes include updating the incorporations by reference to the Florida regulations, as appropriate. Amendment 13 would also re-establish a procedure for an enhanced cooperative management system to provide the state of Florida with a mechanism to propose spiny lobster regulations directly to NMFS for implementation, without a full amendment or framework action to the FMP.

Florida Bulley Net Permit and Gear Marking Requirements and Prohibitions

In 2017, Florida implemented a bulley net permit, gear marking requirements, and gear prohibitions. There is limited information as to how much spiny lobster bulley netting effort occurs in the Federal waters off Florida. However, stakeholders have expressed concerns that spiny lobster bulley net vessels are