may be subjected to further screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. International Tolerances

The Agency is not aware of any country requiring a tolerance for tetraethoxysilane, polymer with hexamethyldisiloxane, nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

IX. Conclusion

Accordingly, EPA finds that exempting residues of tetraethoxysilane, polymer with hexamethyldisiloxane, from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes, or otherwise have any unique impacts or local governments. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 8, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In §180.960, in the table, add alphabetically the following polymers to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * *	
Tetraethoxysilane, polymer with hexamethyldisiloxane, minimum number average molecular weight (in AMU) 2,500.	CAS Reg. No. 104133–09–7
* * * * *	

[FR Doc. 2010–5691 Filed 3–16; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 080721862–91321–03]

RIN 0648–AW51

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Harbor Porpoise Take Reduction Plan Regulations

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

ACTION: Final rule; delay of effective date.

SUMMARY: Through this final rule, the National Marine Fisheries Service (NMFS) delays the effective date of new seasonal pinger requirements for the New England component of the Harbor Porpoise Take Reduction Plan (HPTRP). Specifically, NMFS will delay implementation of new seasonal pinger requirements within the Stellwagen Bank and Southern New England Management Areas from March 22, 2010, to September 15, 2010.

DATES: The effective dates of the amendments to 50 CFR 229.33(a)(4) and 50 CFR 229.33(a)(5), published February 19, 2010 (75 FR 7383), are delayed until September 15, 2010.

ADDRESSES: Copies of the final Environmental Assessment (EA) and Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA), along with a supplemental EA, may be obtained from the HPTRP Web site (*http://www.nero.noaa.gov/hptrp*) or by writing to Amanda Johnson, NMFS, Northeast Region, Protected Resources Division, 55 Great Republic Drive, Suite 04–400, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Amanda Johnson, NMFS, Northeast Region, 978–282–8463, *amanda.johnson@noaa.gov*; or Melissa Andersen, NMFS, Office of Protected Resources, 301–713–2322, *melissa.andersen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

In response to increased serious injury and mortality of harbor porpoises from entanglements in commercial gillnet fishing gear, NMFS determined that modifications to the HPTRP were warranted. Subsequently, on February 19, 2010 (75 FR 7383), NMFS finalized an amendment to the HPTRP that implemented a suite of additional measures in both New England and the Mid-Atlantic to reduce harbor porpoise mortality to below the current potential biological removal (PBR) level. For New England, the final rule expands HPTRP management areas and seasons in which pingers are required on gillnets to reduce harbor porpoise injuries and mortalities due to gillnet gear. The management areas and seasons correspond to areas and times of recently observed harbor porpoise interactions with gillnet gear, and include areas that were not regulated under the original HPTRP implemented on December 2, 1998 (63 FR 66464).

Specifically, the February 19 final rule creates two new management areas in New England with seasonal pinger requirements - the Stellwagen Bank and Southern New England Management Areas. Both areas were previously not managed under the HPTRP; as such, gillnet fishermen operating within these areas were not required to use pingers. In the Mid-Atlantic, the rule creates an additional management area within the Waters off New Jersey Management Area, and modifies the large mesh tie-down requirement. Additional technical corrections were incorporated, as well as a scientific research component. According to the February 19, 2010 final rule, the modifications to the HPTRP were to become effective on March 22, 2010.

As a result of the final rule's pinger requirements, NMFS anticipates a potentially large volume of pinger orders resulting from fishermen who, in the past, have not been required to use pingers.

Following the publication of the final rule, members of the gillnet industry expressed concern over the availability of pingers, and about the possibility that new gillnet vessels would be unable to complete their required NMFS pinger authorization training by the March 22, 2010, effective date. These concerns are due to the historic lack of demand for pingers prior to the publication of the final rule, which led pinger manufacturers and gear suppliers to retain small quantities of pingers in stock. Consequently, the present stock level of pingers may be insufficient to fulfill orders for large quantities of pingers in time for delivery by March 22, 2010, and therefore fishermen may not receive or be able to properly install their pingers until after the March 22 effective date has passed.

Moreover, new gillnet vessels that fish within HPTRP Management Areas with seasonal pinger requirements must complete pinger authorization training provided by NMFS prior to conducting gillnet activities in these areas. Due to the anticipated volume of new gillnet fishermen requiring pinger authorizations, fishermen may not receive their pinger authorization training until after the pinger requirements become effective.

Thus, were the pinger requirement to go into effect on March 22, 2010, the result may be a significant number of fishermen being out of compliance with the new rules, but who simultaneously are unable to achieve compliance due to the limited quantity of pingers from the manufacturers.

Delay of New Seasonal Pinger Requirements in New England

Accordingly, NMFS is delaying, until September 15, 2010, the effective date of new seasonal pinger requirements within the Stellwagen Bank and Southern New England Management Areas (50 CFR 229.33(a)(4) and 50 CFR 229.33(a)(5), respectively).

Since publication of the final rule, NMFS has monitored the availability of pingers and progress made on the pinger authorization training. Based on its findings, NMFS has determined that additional time to purchase and incorporate pingers onto gillnet gear, and for gillnet vessel operators to receive the required pinger authorization training, is warranted. This final rule extends the effective date for new seasonal pinger requirements within the Stellwagen Bank and Southern New England Management Areas to September 15, 2010, to provide additional time for fishermen to comply with these conservation measures.

This action is warranted given the lack of availability of pingers for purchase, the present high demand for pinger purchases, and the additional time needed for new gillnet vessels to complete the required NMFS pinger authorization training. NMFS has chosen September 15, 2010, as the revised effective date for the new pinger requirements to coincide with the first full HPTRP management season in New England after publication of the final rule. Therefore, after this date, seasonal pinger requirements will be in effect for all New England HPTRP management areas.

All other HPTRP amendments will become effective on March 22, 2010, as described in the final rule amending the HPTRP (75 FR 7383; February 19, 2010).

Classification

The Regional Administrator (RA), NMFS Northeast Region, has determined that delaying the effective date of the new seasonal pinger requirements for New England gillnet fishermen is necessary to minimize adverse social and economic impacts, and to allow time for new fishermen to become compliant with the modified HPTRP regulations.

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and does not contain a collection of information requirements subject to the Paperwork Reduction Act (PRA).

An Environmental Assessment (EA) describing the impacts to the environment that would result from the implementation of the February 19,

2010, final rule amending the HPTRP (75 FR 7383) was prepared. The EA concluded that the action to amend the HPTRP was anticipated to have no significant effect on the quality of the human environment. A supplement to the EA has been prepared for this action, describing the effects to the environment of delaying the new pinger requirements in New England. The supplement concludes that the delay does not change the determination of the EA.

Pursuant to 5 U.S.C. 553(b)(B), NMFS finds good cause to waive prior notice and opportunity for public comment on this action as notice and comment would be impracticable and contrary to the public interest due to the time constraints in implementing this final rule prior to the original March 22, 2010 effective date. This final rule merely delays the effective date of the seasonal pinger requirements within two new HPTRP management areas in New England; all other new measures will become effective on March 22, 2010.

Delaying the effective date of the pinger requirement for these two areas is necessary in order to allow manufacturers of pingers to obtain stock levels sufficient to meet the new demand for pingers. Additionally, the delay is necessary to provide affected gillnet vessel owners and operators sufficient time to come into compliance with the HPTRP requirements by ordering and purchasing pingers, and receiving NMFS pinger authorization training prior to fishing within a HPTRP management area in which pingers are required. Without this extension, many affected gillnet owners and operators would, due to the unavailability of pingers in the large quantities being requested, be out of compliance with this rule the day after it becomes effective. Moreover, if NMFS allowed for a notice and comment period, the effective date of the original February 19, 2010 rule would come into effect, thereby defeating the purpose of this rule to delay that effective date in order to allow the affected parties to come into compliance with the rule. For these reasons, NMFS believes it is in the public interest to extend the effective date of these management areas until the first full HPTRP management season in New England following the initial February 19, 2010 publication of the final rule modifying the HPTRP. This season begins in the fall of 2010.

Additionally, pursuant to 5 U.S.C. 553(d)(3), NMFS finds good cause to waive the 30–day delay in effective date of this final rule. This delay is necessary because, if this rule's effectiveness were delayed an additional thirty days, the original effective date of the February 19, 2010 final rule would gain effect, affected fishermen would be out of compliance due to the lack of pingers, and the purpose of this rule would be defeated.

This final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

NMFS conducted a section 7 consultation pursuant to the Endangered Species Act (ESA) on the final rule to amend the HPTRP, which was completed on November 19, 2008. The consultation concluded that the action would not have effects on listed species that were not previously considered during the informal consultation conducted on the initial HPTRP (concluded on November 12, 1998); as such, a consultation was not reinitiated. Therefore, delaying the effective date of new pinger requirements in New England through this final rule does not change this conclusion.

This final rule does not change the determination for the February 19, 2010, final rule (75 FR 7383) that the HPTRP will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of the U.S. Atlantic coastal states.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

Dated: March 10, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–5701 Filed 3–16–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–XU90

Atlantic Highly Migratory Species; Inseason Action to Close the Commercial Gulf of Mexico Non-Sandbar Large Coastal Shark Fishery

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

ACTION: Fishery closure.

SUMMARY: NMFS is closing the commercial fishery for non-sandbar large coastal sharks (LCS) in the Gulf of Mexico region. This action is necessary because the quota for the 2010 fishing season is projected to have reached at least 80 percent of the available quota.

DATES: The commercial non-sandbar LCS fishery is closed effective 11:30 p.m. local time March 17, 2010, until and if NMFS announces, via publication in the **Federal Register** that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Gu DuBeck, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.5(b)(1), shark dealers are required to report to NMFS all sharks landed every two weeks. Dealer reports for fish received between the 1st and 15th of any month must be received by NMFS by the 25th of that month. Dealer reports for fish received between the 16th and the end of any month must be received by NMFS by the 10th of the following month. Under § 635.28(b)(2), when NMFS projects that fishing season landings for a specific shark quota have reached or are about to reach 80 percent of the available quota, NMFS will file for publication with the Office of the **Federal Register** a notice of closure for that shark species group that will be effective no fewer than 5 days from the date of filing. From the effective date and time of the closure until NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fishery for that specific quota is closed, even across fishing years.

On January 5, 2010 (75 FR 250), NMFS announced that the non-sandbar LCS fishery for the Gulf of Mexico region for the 2010 fishing year would open on February 4 and the available non-sandbar LCS quota would be 390.5 metric tons (mt) dressed weight (dw) (860,896 lb dw). Dealer reports through the February 28, 2010, reporting period indicate that 216 mt dw or 55 percent of the available quota for non-sandbar LCS has been taken. All dealer reports through that reporting period are not expected to be received by NMFS until March 10, 2010. Dealer reports received