

SUPPORTING STATEMENT
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
West Coast Region Pacific Tuna Fisheries Logbook, Fish Aggregating
Device Form, and Observer Safety Reporting
OMB Control No. 0648-0148

Abstract

This request is for a revision and extension of a currently approved collection of information. The revisions are a result of a final rule (RIN: 0648-B029) under the Tuna Conventions Act of 1950, as amended, to implement resolutions adopted at the 103rd Meeting of the Inter-American Tropical Tuna Commission (IATTC) in September 2025. These Resolutions include C-25-01 (*Conservation Measures for Tropical Tunas in the Eastern Pacific Ocean During 2026 and 2027-2028*) and C-25-07 (*Amends and Replaces Resolution C-24-06 on Fish-Aggregating Devices*). The final rule also implements several provisions of Resolution C-19-04 (*Resolution to Mitigate Impacts on Sea Turtles*) that were not previously implemented. The final rule modifies recordkeeping and reporting requirements for fish aggregating devices (FADs) in the eastern Pacific Ocean (EPO) to provide an alternative to current paper FAD recovery reporting forms and allow vessel owners and operators to directly enter FAD recovery data into the IATTC's online FAD Recovery database to fulfill reporting requirements. Furthermore, for reporting on Active FADs, it adds a data field to report whether the echosounder is on or off. Additionally, the final rule includes data collection requirements for U.S. purse seine vessel owners and operators to report information on minimum data fields (*e.g.*, species ID, size, release condition) for reporting sea turtle interactions that are not already collected and submitted to the IATTC by an observer onboard the vessel.

Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The United States' (U.S.) participation in the IATTC results in certain record keeping requirements for U.S. vessel owners and operators who fish in the IATTC's area of management responsibility. Under Federal regulations ([50 CFR Part 300 Subpart C](#)), these vessel owners and operators must maintain a log of all operations conducted from the fishing vessel. This record keeping requirement may be met by using the bridge log, which is furnished and collected from vessel owners and operators by the IATTC. The IATTC requires reporting on FADs for purse seine vessel owners and operators without observers onboard. Because all class size 6 purse seine vessels are required to carry an observer, this reporting would only be required in unusual circumstances (*e.g.*, observer exemptions that occurred during COVID). Small U.S. purse seine vessels (*i.e.*, class size 1-5) do not fish on FADs, and reporting requirements do not apply if there is not fishing on FADs. U.S. purse seine vessel operators are still required to provide the observer with the FAD identification code and the other information in the FAD interaction standard format provided by the National Marine Fisheries Service (NMFS) Highly Migratory Species (HMS) Branch, as appropriate. Any U.S. vessel without an observer onboard must ensure that any interaction or activity with a FAD is reported using a FAD interaction standard format provided by the HMS Branch. The IATTC recently revised Resolutions on FADs to require a new reporting

requirement for vessels that engage in FAD recovery activities without an observer onboard (§ 300.22 (5)).

Regarding sea turtle interaction reporting, under 50 CFR part 300, Subpart C there is no new form, the requested information would go on the logbooks that the fishermen are already using. Similar conditions apply in that Class 6 seiners typically have an observer onboard that would oversee reporting on the sea turtle interaction. Small U.S. purse seine vessels (*i.e.*, class size 1-5) would be required to have the vessel operator record the interaction. However, most sea turtle interactions on purse seiners involve sets on FADs. Since these small seiners do not fish on FADs, they are unlikely to have interactions with sea turtles.

The recordkeeping requirements provide information that is needed to assess the impacts of tuna stocks and non-target species, to better understand the number and type of FADs, and to evaluate the effectiveness of management measures. The authority to implement federal rules to meet U.S. responsibilities to the IATTC is set forth in the Tuna Conventions Act of 1950, as amended ([16 U.S.C. 951 et seq](#)).

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The specific record keeping requirements are set forth in the regulations.

Recordkeeping and reporting requirements

Logbooks. Among the data entered daily are the date, noon position, the number of fish on board by species, water temperature, specification of wells to keep fish, tracking device used to locate fish, and the time and location of catch. There is also a section for vessel owners or operators to enter in additional remarks. U.S. vessel owners and operators collect and record all the requested information on the IATTC form (included in this submission is the English example of the form and instructions, which are in both English and Spanish). These data are used with data from other fishing nations to monitor amounts and areas of catch by species and to annually assess the distribution and abundance of different tuna stocks. The information is also used to determine whether changes in management strategies can increase the yield from, or productivity of, the stocks (*e.g.*, targeting larger fish to increase yield per trip). The time of gear deployment is important so that the impacts of alternate strategies (*e.g.*, time/area closures or time-of-day fishing restrictions) on the fisheries can be assessed. The type of school is important in determining yield potentials as fishing on certain kinds of schools may result in greater mortality of juvenile fish or fish of certain species. The specification of wells in which fish are placed is important because landings are sampled and catches by species and size or gender can then be allocated by area and season of fishing. This can assist in determining the key spawning areas or possibly areas in which fishing should be restricted in the future to increase yields and values from the fishery.

Current and former member nations continue to provide data to ensure that the time series of data is not broken. All nations recognize an ongoing interest in maintaining the ability to assess the status of stocks and conditions in the fisheries even in the absence of a regulatory program.

Purse seine vessels with a carrying capacity of 363 metric tons and below were required to use this bridge log to meet HMS Federal reporting regulations (50 CFR 660.708). Under the information

collection 0648-0223, a new logbook was designed as an alternative to the bridge log to meet this requirement. Many U.S. purse seiners submit their logbooks electronically to the IATTC.

FAD Reporting. For each interaction with a FAD, the vessel's owner or operator without an observer onboard is required to record data in compliance with Annex I of IATTC Resolution C-19-01 that includes: (1) position; (2) date; (3) hour; (4) FAD identification; (5) FAD type (*e.g.*, drifting natural FAD, drifting artificial FAD); (6) FAD design characteristics (*i.e.*, dimension and material of the floating part and underwater hanging structure); (7) activity type; (8) if the activity is a set, the results of the set in terms of catch and bycatch; and (9) characteristics of any attached buoy or positioning equipment (*e.g.*, positioning system, whether equipped with sonar). For vessels with an observer onboard, the observer will collect the data, but the U.S. purse seine vessel operators are still required to provide the observer with the FAD identification code and the other information in the FAD interaction standard format provided by the HMS Branch, as appropriate.

U.S. vessel owners and operators must record or maintain daily information on buoy location and acoustic data for all Active FADs that have been deployed in the water in the IATTC Convention Area and report that information to the IATTC, using a format and address provided by the HMS Branch. Daily information on buoy location must include date, time, buoy identifier, latitude, longitude, International Maritime Organization (IMO) number, and speed, and whether the echosounder is on or off. Acoustic data will vary depending on the buoy company, but must include company, buoy identifier latitude, longitude, and layers of data. In addition, U.S. vessel owners and operators must report any deactivation or reactivation of a satellite buoy, including the reason for deactivation, date, latitude, longitude, buoy identifier, and speed. This information must be reported to the IATTC, using the format and address provided by the HMS Branch. This information must be submitted for each calendar month no later than 90 days after the month covered by the report.

For vessels that volunteer to recover FADs, the vessel's owner or operator without an observer onboard is required to record data in compliance with IATTC Resolution C-25-07 and § 300.22 (5) that includes: (1) position; (2) date; (3) environment; (4) FAD identification; (5) FAD type (*e.g.*, drifting natural FAD, drifting artificial FAD); (6) FAD design characteristics (*i.e.*, dimension and material of the floating part and underwater hanging structure); (7) if animals are entangled; (8) disposal or recycling status; and (9) characteristics of any attached buoy or positioning equipment (*e.g.*, positioning system, whether equipped with sonar). For vessels with an observer onboard, the observer will collect the data, but the U.S. purse seine vessel operators are still required to provide the observer with the FAD identification code and the other information in the FAD interaction standard format provided by the HMS Branch, as appropriate.

The IATTC scientific staff will analyze the data collected on FAD activities and make management recommendations on the use of FADs in the EPO. The position, date, and hour information is important so that the IATTC scientific staff can analyze the location and the time of FAD sets and develop FAD management options (*e.g.*, time/area closures, time of day fishing restrictions). FAD identification ensures that the IATTC scientific staff would be able to distinguish a particular FAD when analyzing data and could track FAD activities through time. The FAD design characteristics allow the IATTC scientific staff to assess what types of FADs are typically used so that they can provide recommendations on different types of design and materials. This type of activity provides context for FAD interaction and allows the IATTC to assess the number of FADs that might be lost or left in the ocean. The results of the set allow the IATTC to analyze the catch associated with the FAD, and the characteristics for the buoy or positioning system provides additional information on how the vessel is tracking the FAD.

Cannery reporting. U.S. vessel owners and operators must report processing plant data for fish caught in the IATTC Convention Area to the IATTC or NMFS no later than ten days after completion of unloading and the last day of grading by size.

Sea turtle interaction reporting. U.S. vessel owners and operators, without an onboard observer, must report all sea turtle interactions by purse seine gear as part of current logbook reporting requirements. The minimum data fields required to satisfy this report and a list of additional data that should be included if available are as follows:

- (1) *Required information.* The log of sea turtle interactions must include the following information:
 - (i) number of individual sea turtles with which the vessel interacted;
 - (ii) date of interaction;
 - (iii) location of interaction (latitude and longitude of interaction);
 - (iv) fishing gear type;
 - (v) species identification;
 - (vi) size (*i.e.*, curved or straight carapace length); and,
 - (vii) capture and release condition (*e.g.*, live/injured/dead).
- (2) *Supplemental information.* If available, the log of sea turtle interactions should also include the following:
 - (i) the anatomical hooking location (*e.g.*, flipper, mouth/jaw, swallowed, entangled);
 - (ii) amount of gear left on the animal, if applicable (*e.g.*, estimated length of line); and,
 - (iii) any associated photographs.

To comply with this provision, purse seine vessels that do not fish on FADs and use the “IATTC Regional Purse Seine Logbook” would enter the minimum data fields in the “Remarks” column of the logbook and purse seine vessels that fish on FADs and use the “Logbook for purse seine vessels that fish on Fish Aggregating Devices” would enter minimum data fields not already on the logbook in the “Comments/Observations” column of the logbook.

These data would be used by NMFS and IATTC scientific staff to assess how well gear types and best handling and release practices work to mitigate impacts to sea turtles. The IATTC regularly assesses these data at its Ecosystem and Bycatch Working Group as well as at its Scientific Advisory Committee. NMFS is currently using similar data to update the Endangered Species Act biological opinion for the U.S. purse seine fleet in the EPO.

Reporting for incidences related to purse seine observers and donated or surrendered silky shark

The owner or operator of a purse seine fishing vessel of the United States is required to immediately report serious illness or injury that threatens the life and/or long-term health or safety of an observer to the observer provider and a U.S. government contact. In addition, the owner or operator of a purse seine fishing vessel of the United States is required to immediately report an observer that has gone missing, an observer death, or harassment of an observer to the IATTC observer provider.

NMFS West Coast Region will provide phone numbers and email addresses for the owner or operator to contact in these events.

In addition, the owner or operator of a purse seine vessel of the United States is required to record, in the logbook, any silky shark that is not seen before entering the well and surrendered or donated when reaching a port. This can be recorded on the note section of the purse seine logbook.

Data collected by NMFS will be safeguarded from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. Data collected by the IATTC will be maintained in accordance with data confidentiality standards agreed to by IATTC nations under Resolution C-15-07. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures, and a pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

The information being submitted is necessary to carry out U.S. obligations as a member of the IATTC and is collected in the least burdensome manner known. Logbooks and the FAD recovery form may be submitted using a paper form or a fillable .pdf file that can be submitted electronically. FAD recovery data may also be submitted electronically by directly putting it into the IATTC database. FAD buoy data may be submitted via email to IATTC using automated reports from satellite companies.

Reporting incidents involving observers to both the IATTC observer provider and NMFS may be done by email or over the phone.

Forms are sent out with new permits and may also be requested from the IATTC at 8901 La Jolla Shores Drive, La Jolla, CA 92037, or from NMFS, West Coast Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802, or by emailing wcr.permits@noaa.gov.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Question 2.

NMFS has sole Federal authority to obtain these data. NMFS has coordinated with the IATTC and the State of California to eliminate redundancy between the federally mandated reports and logbooks or landings reports required by the IATTC and the State, respectively. NMFS also coordinates with other private and public organizations that collect or compile information on catch and make effort in the regulatory area to prevent duplication. This is necessary because large portions of U.S. vessels' catches are landed in ports outside California. The logbooks are an important component of this coordinated data collection program; there are no other programs that would both result in the same information being available to the United States and the IATTC on the necessary schedule and satisfy U.S. reporting requirements.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Entities subject to the action related to these reporting requirements are considered small and large businesses. All practicable steps to minimize the burden on small entities have been taken. Record-keeping requirements are directly proportional to each firm's level of activity. Thus, occasional, part-time, or local vessels harvesting small amounts of tuna spend less time collecting and reporting data than the larger firms.

No disproportionate economic effects between small and large businesses are expected.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If this data were not collected, there would be a significant gap in the database needed by the IATTC and the U.S. to complete stock assessments, determine U.S. interests in the fishery, to develop appropriate management measures for FADs, and conduct evaluations of fishery management strategies to achieve the maximum economic yield from the fishery. The risk of erroneous stock assessments and inappropriate management would increase as a result. In addition, reporting incidents involving observer safety is intended to protect the lives of the observers at sea. The U.S. would be less able to protect or enhance U.S. benefits from fishing within the IATTC Convention Area and would not meet its commitments as an IATTC member nation, under the Tuna Conventions Act.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with OMB guidelines.

This collection will be conducted in a manner consistent with OMB guidelines.

8. If applicable, provide a copy and identify the date and page number of publications in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Good cause exists under 5 U.S.C. 533(b)(B) and 5 U.S.C. 553(d) (3) to waive prior notice and the opportunity for public comment and the 30-day delay in effective date, as following such procedures for this action would be impracticable, unnecessary, and contrary to the public interest. As a Member of the IATTC and a Party to the Antigua Convention, the United States is obligated to implement resolutions adopted by the IATTC. NMFS is authorized to implement those resolutions under the Tuna Conventions Act and must report U.S. compliance with implementation to the IATTC on an annual basis. The IATTC resolutions being implemented by this rule are already in effect. And the specific provisions of those resolutions being implemented by this rule are largely prescriptive, which means there is no alternative action that could be taken with respect to those provisions, nor could public comment provide new information that would change the requirements of those provisions. Providing prior notice and opportunity for public comment and delaying the rule's effective date would therefore further delay U.S. compliance with its

international obligations without providing associated benefits to the regulated community or fishery. Providing prior notice and opportunity for public comment and delaying the rule's effective date would also be contrary to the public interest because it would delay the availability of increased flexibilities and fishing opportunities offered by this rule, including the 8-day reduction in the required closure period, which could limit the fishery participant's ability to realize the full level of economic opportunity the rule provides and impact on the annual revenue of the purse seine fleet and on the Nation's seafood supply chain. In addition, affected members of the public are already on notice of, and had an opportunity to provide some input on the development of, the measures implemented by this rule, because many of them attended or sent professional representatives to attend the relevant IATTC annual meetings and were involved in briefings and discussions with State Department and NOAA officials and staff, both prior to and during those annual meetings. Because the measures in this rule are expected by the owners and operators of U.S. purse seine and longline vessels operating in the EPO, a 30-day delay in the rule's effective date is unnecessary. As soon as the rule is filed, NMFS will send notice of the rule via email to owners of vessels that are affected by this rule.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts are made to any respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a system of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

As stated on the forms, individual firm data are submitted to the IATTC and are not released to the public; only aggregated data or data with vessel identifiers removed are released. These procedures are consistent with [NOAA Administrative Order 216-100](#) governing the management of confidential data. These data also are maintained as confidential by the IATTC as they reveal the business practices of individual firms, and release of the data could be harmful to the firm involved.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

This information collection does not involve information of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

Information Collection	Type of Respondent (e.g., Occupational Title)	# of Respondents/year (a)	Annual # of Responses / Respondent (b)	Total # of Annual Responses (c) = (a) x (b)	Burden Hrs / Response (d)	Total Annual Burden Hrs (e) = (c) x (d)	Hourly Wage Rate (for Type of Respondent) (f)	Total Annual Wage Burden Costs (g) = (e) x (f)
Bride Log and FAD Form	Fisherman	18	301	5,418	6 min	542	\$20.06	\$10,873
Observer Safety Reporting	Biological Technician	1	1	1	5 min	0	\$27.89	\$0.00
FAD Satellite Buoy Reporting	Fisherman	18	190	3,420	3 min	171	\$20.06	\$3,430
Cannery Data	Fisherman	18	4.5	81	5 min	7	\$20.06	\$140
FAD Recovery Form	Biological Technician	1	5	5	15 min	1	\$27.89	\$27.89
Sea Turtle Interaction Reporting	Biological Technician	8	1.5	12	3 min	1	\$27.89	\$27.89
Totals				8,936		722		\$14,499

The Occupation Code 19-4021 was used to determine the Biological Technician wage rate.
The Occupation Code 45-0000 was used to determine the fisherman wage rate.

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

Information Collection	# of Respondents/year (a)	Annual # of Responses / Respondent (b)	Total # of Annual Responses (c) = (a) x (b)	Cost Burden / Respondent (h)	Total Annual Cost Burden (i) = (c) x (h)
Bride Log and FAD Form	18	301	5,418	\$0.78	\$4,226
Observer Safety Reporting	1	1	0	\$0.78	\$0.00
FAD Satellite Buoy Reporting	18	190	3,420	\$0.78	\$2,668

Cannery Data	18	4.5	81	\$0.78	\$63.00
FAD Recovery Form	1	5	5	\$0.78	\$4.00
Sea Turtle Interaction Reporting	8	1.5	12	\$0.78	\$9.00
TOTALS			8,936		\$6,970

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

No costs are incurred by the federal government for this information collection as the maintenance/preparation for this information collection is less than 1% of a federal employee's effort annually. Logbooks and FAD forms are provided by IATTC, and forms are processed by IATTC. FAD recovery forms will be provided online by the NMFS HMS Branch.

15. Explain the reasons for any program changes or adjustments reported in ROCIS.

The following tables show the changes in the number of respondents, responses, time estimates, labor costs, and miscellaneous costs; and explains the reasons for these changes.

Information Collection	Respondents		Responses		Burden Hours		Reason for change or adjustment
	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	Current Renewal / Revision	Previous Renewal / Revision	
Bride Log and FAD Form	18	15	5,418	210	542	21	Adjusted based on number of active purse seine vessels and # of forms they could submit based on fishing days available per year (e.g. 365-64=301 possible fishing days). Each form has more than enough space for several sets per day, which vessels rarely do. The previous PRA had an error in this column for the calculation.
Observer Safety Reporting	18	15	0	1	0	0	Adjusted based on the number of active purse seine vessels and how rarely these reports are necessary.
FAD Satellite Buoy Reporting	18	19	3,420	3,610	171	181	Decrease in satellite reporting and respondents.
Cannery Data	18	15	81	68	7	6	Adjusted based on number of active purse seine vessels and the 2022-2024 average number of cannery offloads and data sheets submitted each year.
FAD Recovery Form	1	1	5	5	1	1	Updated based on the number of FAD recovery forms received in 2024.
Sea Turtle Interaction Reporting	18	0	12	0	1	0	New IATTC reporting requirement.
Total for Collection	91	65	8,936	3,894	722	209	
Difference	26 (Adjustment)		5,042 (+12 Program Change) (+5,030 Adjustment)		513 (+1 Program Change) (+512 Adjustment)		

Information Collection	Miscellaneous Costs		Reason for change or adjustment
	Current	Previous	
Bride Log and FAD Form	\$4,226	\$143	Updated using current postage costs and based on the number of active purse seine vessels. Most U.S. seiners submit their logbooks electronically and do not incur costs for mailing in paper forms. The previous PRA had an error in this column for the calculation.
Observer Safety Reporting	\$0.00	\$1.00	Updated using current postage costs and based on the number of active purse seine vessels and how rarely these reports are necessary.
FAD Satellite Buoy Reporting	\$2,668	\$2,455	Updated using current postage costs. The annual number of responses decreased.
Cannery Data	\$63.00	\$46.00	Updated current postage costs and based on number of active purse seine vessels and the 2023-2025 average of trips per year, which corresponds to number of cannery offloads and data sheets submitted each year.
FAD Recovery Form	\$4.00	\$3.00	Adjusted based on the number of reported FAD recoveries in 2023-2025 and to reflect that the form is usually filled out by a biological technician, not a fisherman.
Sea Turtle Interaction Reporting	\$9.00	\$0.00	New IATTC Reporting Requirement
Total for Collection	6,970	2,648	
Difference	4,322 (+9 Program Change) (+4,313 Adjustment)		

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The data are used in the computation of stock assessments, analyses for FAD management, and fishery condition reports by NMFS and IATTC scientists. The results are compiled and analyzed for IATTC reports, typically in time for the IATTC annual meeting that usually takes place in June each year, but no time frame is set for other publications in scientific journals or government reports. For information reported to the observer provider or NMFS regarding the safety of observers, there is no plan to publish this information.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We continue to request OMB approval to not display the expiration date because there is no federal government form used, and therefore there is no form on which to display the expiration date. NOAA has previously requested that the IATTC include the OMB Control Number and expiration date, but they have declined NOAA's request. The OMB Control No. and expiration date are on a separate Paperwork Reduction Act Statement that goes with the form.

18. Explain each exception to the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

The agency certifies compliance with [5 CFR 1320.9](#) and the related provisions of [5 CFR 1320.8\(b\)\(3\)](#).