

10.0 INCIDENTAL TAKE STATEMENT (Amended January 9, 2017)

Section 9 of the ESA prohibits the take of endangered species of fish and wildlife. “Fish and wildlife” is defined in the ESA “as any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, non-migratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof” (16 U.S.C. 1532(8)). “Take” is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by NMFS to include any act which actually kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation that actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns including breeding, spawning, rearing, migrating, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. “Otherwise lawful activities” are those actions that meet all State and Federal legal requirements except for the prohibition against taking in ESA section 9 (51 FR 19936; June 3, 1986), which would include any state endangered species laws or regulations. Section 9(g) makes it unlawful for any person “to attempt to commit, solicit another to commit, or cause to be committed, any offense defined [in the ESA]” (16 U.S.C. 1538(g)). A “person” is defined in part as any entity subject to the jurisdiction of the U.S., including an individual, corporation, officer, employee, department, or instrument of the Federal government (see 16 U.S.C. 1532 (13)). Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not the purpose of carrying out an otherwise lawful activity is not considered to be prohibited under the ESA provided that such taking is in compliance with the terms and conditions of this ITS. In issuing ITSs, NMFS takes no position on whether an action is an “otherwise lawful activity.”

The measures described below are non-discretionary, and must be undertaken by the NEFSC, its research partners, and OPR so that they become binding conditions for the exemption in section 7(o)(2) to apply. The NEFSC, its partners, and OPR have a continuing duty to regulate the activity covered by this ITS. If the NEFSC, its partners, or OPR (1) fails to assume and implement the terms and conditions or (2) fails to require research vessels to adhere to the terms and conditions of the ITS through enforceable terms that are added to permits and/or contracts as appropriate, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the NEFSC, its partners, and OPR must report the progress of the action and its impact on the species to the GARFO PRD as specified in the ITS [50 CFR §402.14(i)(3)] (See USFWS and NMFS’s Joint ESA Section 7 Consultation Handbook (1998) at 4-49).

10.1 Anticipated Amount or Extent of Incidental Take

Based on the information presented in the Opinion, we anticipate that the fisheries and ecosystem research projects being conducted and funded by the NEFSC over the next five years (and in future five-year periods) will result in the capture of:

- up to 85 NWA DPS loggerhead sea turtles (ten lethal);
- up to 95 Kemp’s ridley sea turtles (15 lethal);
- up to ten North Atlantic DPS green sea turtles (none lethal);

- up to ten leatherback sea turtles (five lethal);
- up to ten shortnose sturgeon (one lethal);
- up to 595 Atlantic sturgeon (30 lethal)
 - up to 308 from the NYB DPS (15 lethal),
 - up to 130 from the SA DPS (seven lethal),
 - up to 70 from the CB DPS (four lethal),
 - up to 60 from the GOM DPS (three lethal),
 - up to 14 from the Carolina DPS (one lethal),
 - up to 13 Canadian origin (non-listed);
- up to five Gulf of Maine DPS Atlantic salmon (two lethal).

Again, we have determined that this level of anticipated take is not likely to result in jeopardy to any species of sea turtle, shortnose sturgeon, or any DPS of Atlantic sturgeon or Atlantic salmon.

We have concluded that the NEFSC’s fisheries and ecosystem research over a five-year period is likely to result in incidental take of sperm whales in the form of Level B acoustic harassment. The exposure to underwater noise from the two primary acoustic sources (Simrad EK60 and Simrad ME70) is expected to cause behavioral effects, such as disruption of feeding, resting, or other activities or alterations in breathing, vocalizing, or diving rates. The project-related acoustic effects from these sources will be temporary, short term, and geographically limited to a very small portion of the overall species’ range. The OPR’s Permits and Conservation Division has issued a final LOA for the harassment of a small number of marine mammals incidental to the proposed actions. The LOA is effective for a period of five years from September 12, 2016, to September 9, 2021 (81 FR 53061; August 11, 2016). The LOA authorizes up to 15 incidents of sperm whale take per year over the course of the five-year period. The amount of exempted take will be exceeded if any sperm whales are harmed, injured, or killed as a result of the proposed action, or if the number of sperm whale take occurrences by acoustic harassment as defined above exceeds the estimate of 15 events per year. For sperm whales, this ITS is only valid over the lifespan of the LOA, unless renewed in the future.

10.2 Reasonable and Prudent Measures

In order to effectively monitor the effects of the proposed actions, it is necessary to monitor the impacts of these actions to document the amount of incidental take (i.e., the number of sperm whales, sea turtles, shortnose and Atlantic sturgeon, and Atlantic salmon captured, harassed, injured, or killed) and to examine any sperm whales, sea turtles, sturgeon, or salmon that are captured during this monitoring. Monitoring provides information on the characteristics of sperm whales, sea turtles, sturgeon, and salmon encountered and may provide data which will help develop more effective measures to avoid future interactions with ESA-listed species. We do not anticipate any additional injury or mortality to be caused by handling and/or examining sperm whales, sea turtles, sturgeon, and salmon as required in the reasonable and prudent measures (RPMs) listed below. Unless staff have received the proper disentanglement training or are under the direct guidance of regional stranding or disentanglement experts, all live animals are to be released back into the water following the required documentation.

We believe the following RPMs are necessary or appropriate to minimize and monitor the impacts of incidental take of sperm whales, sea turtles, shortnose and Atlantic sturgeon, and Atlantic salmon. They include a training requirement for NEFSC cruise and cooperative research staff (#1), which must be accomplished through workshops in the classroom or the field, followed by four sets of activities that must be conducted and completed by NEFSC cruise and cooperative research staff while at sea in the order listed below in the aftermath of any event of incidental take (#2-#5).

1. PROTECTED SPECIES OBSERVER AND DISENTANGLEMENT TRAINING: NEFSC staff scientists and/or crew regularly participating in research cruises or cooperative research studies that may interact with ESA-listed species must obtain or possess both protected species observer training (to be given through the NEFOP) and sea turtle disentanglement training (to be provided by staff from the GARFO PRD). This is an absolute requirement for staff scientists and crew involved in the following survey programs which have had past interactions with ESA-listed species: (1) COASTSPAN, (2) Spring and Fall NEFSC BTS, (3) Spring and Fall NEAMAP, and (4) Apex Predators.
2. HANDLING AND RESUSCITATION: Any sea turtles, shortnose sturgeon, Atlantic sturgeon, or Atlantic salmon caught and retrieved in gear used in NEFSC research cruises or cooperative research projects covered under this Opinion must be handled and resuscitated (if unresponsive) according to established protocols and whenever at-sea conditions are safe for those handling and resuscitating the animal(s) to do so.
3. DATA COLLECTION, SAMPLING, AND TAGGING: Any sea turtles, shortnose sturgeon, Atlantic sturgeon, or Atlantic salmon caught and/or retrieved in gear used in NEFSC research cruises or cooperative research projects covered under this Opinion must first be identified to species or species group. Each ESA-listed species caught and/or retrieved must then be properly documented using appropriate equipment and data collection forms provided by the GARFO PRD, NEFSC, or NMFS Office of Science and Technology. Finally, biological data and samples must be collected for all sea turtles, sturgeon, and salmon caught and retrieved from fishing gear and appropriate tags be applied to the animals if it is determined that they have not been tagged already.
4. RELEASE OR RETENTION: Any live sea turtles, shortnose sturgeon, Atlantic sturgeon, or Atlantic salmon caught and retrieved in gear used in NEFSC research cruises or cooperative research projects covered under this Opinion must ultimately be released according to established protocols and whenever at-sea conditions are safe for those releasing the animal(s) to do so. Any dead sea turtles, shortnose sturgeon, Atlantic sturgeon, or Atlantic salmon must be retained, if logistically feasible and instructed by the GARFO PRD to do so, and then transferred to an appropriately permitted research facility either the GARFO PRD or NEFSC Protected Species Branch will identify so that a necropsy can be undertaken to attempt to determine the cause of death and/or other appropriate examinations can take place. Sea turtle, sturgeon, and salmon carcasses should be held in cold storage until shipping.

5. REPORTING: The GARFO PRD must be notified and/or a Protected Species Incidental Take (PSIT) database record must be entered for all observed takes of sperm whales, sea turtles, shortnose sturgeon, Atlantic sturgeon, or Atlantic salmon resulting from NEFSC research cruises or cooperative research projects covered under this Opinion.

10.3 Terms and Conditions

In order to be exempt from prohibitions of section 9 of the ESA, the NEFSC, its research partners, and OPR must comply with the following terms and conditions of the ITS, which implement the RPMs described above and outline required reporting/monitoring requirements. These terms and conditions are non-discretionary. Any taking that is in compliance with the terms and conditions specified in this ITS shall not be considered a prohibited taking of the species concerned (ESA section 7(o)(2)).

1. To implement RPM #1 above, the NEFSC must ensure that for all fisheries and ecosystem research projects either with a history of ESA-listed species interactions or deploying fishing gear in areas and at times of year when those species are present, staff scientists and/or crew members onboard possess NEFOP observer training and certification. At the very minimum, at least one staff scientist or crew member onboard must possess this training and be available to respond to an ESA-listed species interaction at all times (and preferably multiple members if a NOAA research vessel is the platform). To give NEFSC survey and cooperative research staff sufficient time to set up and obtain this training, we will allow a period of one year from the signature date of this Opinion for individuals not already trained to acquire the necessary training. However, due to past documented takes of ESA-listed species, at least one staff scientist or crew member onboard upcoming COASTSPAN, Spring and Fall NEFSC BTS, Spring and Fall NEAMAP, and Apex Predators surveys must already have this training.
2. To implement RPM #1 above, the NEFSC must ensure that for all fisheries and ecosystem research projects either with a history of sea turtle interactions or deploying fishing gear in areas and at times of year when sea turtles are present, staff scientists and/or crew members onboard possess sea turtle disentanglement training. At the very minimum, at least one staff scientist or crew member onboard must possess this training and be available to respond to a sea turtle entanglement at all times (and preferably multiple members if a NOAA research vessel is the platform). In addition, those vessels deploying fixed gear (e.g., gillnets, pots/traps) or line gear (e.g., longline, hook and line) or for which sea turtle interactions have occurred in the past must have adequate disentanglement equipment onboard. Survey and cooperative research staff with adequate disentanglement training are authorized through this Opinion to disentangle sea turtles according to the Northeast Atlantic Coast STDN Disentanglement Guidelines at <http://www.greateratlantic.fisheries.noaa.gov/protected/stranding/disentanglements/turtle/stdn.html>. The NEFSC should contact Kate Sampson (978-282-8470) or the GARFO PRD Sea Turtle Program (978-281-9328) for information on required disentanglement protocols and equipment and to set up any required training. All disentanglement must be done in accordance with NEFOP protocols or the procedures described in “Careful Release Protocols for Sea Turtle Release with Minimal Injury” (NOAA Technical

Memorandum 580; http://www.sefsc.noaa.gov/turtles/TM_580_SEFSC_CRP_2008.pdf). To give NEFSC survey and cooperative research staff sufficient time to set up and obtain this training, we will allow a period of one year from the signature date of this Opinion for individuals not already trained to acquire the necessary training.

3. To implement RPM #2 above, the NEFSC must ensure that all NEFSC survey and cooperative research vessels and their staff onboard have copies of the sea turtle handling and resuscitation requirements found at 50 CFR 223.206(d)(1) and as reproduced in the wheelhouse card in Appendix C prior to the commencement of any on-water activity. The NEFSC or its research partners must carry out these handling and resuscitation procedures any time a sea turtle is incidentally captured and brought onboard the vessel during the proposed actions. It is requested that only NEFOP trained staff scientists or crew members onboard perform the handling and resuscitation of captured sea turtles.
4. To implement RPM #2 above, the NEFSC must ensure that survey and cooperative research staff give priority to the handling and resuscitation of any sea turtles, sturgeon, or salmon that are captured in the gear being used, if conditions at sea are safe to do so. Handling times for these species should be minimized (i.e., kept to 15 minutes or less) to limit the amount of stress placed on the animals.
5. To implement RPM #2 (as well as #4) above, for ESA-listed whales and sea turtles encountered during fisheries and ecosystem research that appear injured, sick, distressed, or dead (including stranded or entangled individuals), NEFSC survey and cooperative research staff must immediately contact the Greater Atlantic Region Marine Animal Hotline at 866-755-NOAA (6622) for further instructions and guidance on handling, retention, and/or disposal of the animal. If unable to contact the hotline (e.g., due to distance from shore or lack of ability to communicate via phone), the USCG should be contacted via VHF marine radio on Channel 16. If required, hard-shelled sea turtles (i.e., non-leatherbacks) may be held on board for up to 24 hours provided that conditions during holding are approved by the GARFO PRD and safe handling practices are followed. If the hotline or an available veterinarian cannot be contacted and the injured animal cannot be taken to a rehabilitation center, NEFSC affiliated researchers must cease activities that could further stress the animal, allow it to rest and recuperate as conditions dictate, and then return the animal to the sea.
6. To implement RPM #2 above, the NEFSC must ensure that survey and cooperative research staff attempt to resuscitate any shortnose sturgeon, Atlantic sturgeon, or Atlantic salmon that are unresponsive or comatose by providing a running source of water over the gills.
7. To comply with RPM #3 above, the NEFSC must ensure that both survey vessels and those vessels participating in cooperative research projects have at least one staff member onboard at all times that on-water work is being conducted who is experienced in the identification of ESA-listed whales, sea turtles, shortnose and Atlantic sturgeon, and Atlantic salmon. This includes personnel that have received training and certification as a NMFS fisheries observer (NEFOP training is preferred) or who have career experience in

the identification of these species. Although the NEFOP training manuals found at <http://www.nefsc.noaa.gov/fsb/training/> are the best resource for species identification, we have also provided information in Appendix D to assist vessel staff and crew in identifying the different species of sea turtles and sturgeon found in Greater Atlantic waters.

8. To implement RPM #3 (as well as #5) above, the NEFSC must ensure that both survey vessels and vessels participating in cooperative research projects with a history or likelihood of ESA-listed species take have a passive integrated transponder (PIT) tag reader onboard and that this reader be used to scan any captured sea turtles, sturgeon, or salmon for tags. Any recorded tags must be entered into the PSIT record or reported to the GARFO PRD. Any untagged sea turtles, sturgeon, or salmon must be tagged with PIT tags (and/or flipper tags for sea turtles) and the tag numbers recorded into the PSIT database or reported to the GARFO PRD. The NEFSC and GARFO PRD must work together to discuss how PIT tags and tag readers will be supplied to the required survey or cooperative research staff or vessels. To give NEFSC survey and cooperative research staff sufficient time to obtain the required PIT tagging equipment and training, we will allow a period of one year from the signature date of this Opinion for these discussions to occur and equipment to be procured, if they have not already.
9. To comply with RPM #3 above, the NEFSC must ensure that survey and cooperative research staff working on projects either with a history of sea turtle interactions or deploying fishing gear in areas and at times of year when sea turtles are present obtain two biopsy samples from all captured sea turtles (alive or dead). One sample must be collected for genetics and the other for stable isotope analysis. This must be done in accordance with NEFOP protocols. The recommended contents of a biopsy sampling kit and an instructional video for biopsy sampling can be found on the SEFSC's website at <http://www.sefsc.noaa.gov/species/turtles/observers.htm>. If the NEFSC or its research partners anticipate any difficulty in complying with the recommended procedures (due to materials availability, length of time away from port, etc.), they must contact the GARFO PRD to discuss alternative sampling procedures prior to the start of any survey or cooperative research project that is expected to capture sea turtles. All biopsy samples for sea turtles should be sent to Heather Haas (Heather.Haas@noaa.gov), Research Fisheries Biologist of the NEFSC Protected Species Branch at 166 Water St, Woods Hole, MA 02543. To give NEFSC survey and cooperative research staff sufficient time to obtain the required biopsy sampling equipment and training, we will allow a period of one year from the signature date of this Opinion for these discussions to occur and equipment to be procured, if they have not already.
10. To comply with RPM #3 above, the NEFSC must ensure that survey and cooperative research staff either with a history of sturgeon or salmon interactions or deploying fishing gear in areas and at times of year when sturgeon or salmon are present obtain genetic samples from all captured fish (alive or dead). This must be done in accordance with the fin clip procedures provided by the GARFO PRD and as included in Appendix E. If the NEFSC or its research partners anticipate any difficulty in complying with the recommended procedures (due to materials availability, length of time away from port,

etc.), they must contact the GARFO PRD to discuss alternative sampling or holding procedures prior to the start of any survey or cooperative research project that is expected to capture sturgeon or salmon. To give NEFSC survey and cooperative research staff sufficient time to obtain the required biopsy sampling equipment and training, we will allow a period of one year from the signature date of this Opinion for these discussions to occur and equipment to be procured, if they have not already.

11. To comply with RPM #3 (as well as #5), the NEFSC must ensure that survey and cooperative research staff measure, weigh, and either photograph or video all sea turtles, sturgeon, and salmon incidentally captured. The condition of each animal and any potential injuries must be documented to the best of the staff member's ability. These data must be entered as part of the PSIT record for each incidental take.
12. To implement RPM #4, all live, uninjured sea turtles, sturgeon, and salmon that are incidentally captured during NEFSC surveys or cooperative research projects must be released back into the water as quickly as possible to minimize stress to the animal.
13. To implement RPM #4, in the event of any lethal takes of sea turtles, sturgeon, or salmon, any dead specimens or body parts must be preserved (frozen is preferred, although refrigerated is permitted as well if a freezer is not available) until retention or disposal procedures are discussed with the GARFO PRD. In the event a carcass is severely damaged or decayed to the point at which a necropsy would not be feasible, the animal should be disposed of at sea after a genetic sample is taken. It is up to the NEFOP-trained or experienced staff member onboard to assess the state of damage/decay and to ultimately make the call as to whether a necropsy is possible. The form included as Appendix H (sturgeon salvage form) must also be completed and submitted to us for any dead sturgeon captured.
14. To comply with RPM #5, the NEFSC or its research partners must ensure that either a PSIT record is entered (online at <https://www.st.nmfs.noaa.gov/finss/psit/psitMain.jsp>) or the GARFO PRD is notified within 48 hours of any interaction with an ESA-listed whale, sea turtle, sturgeon, or salmon. These reports, if unable to be entered into the PSIT database (see Appendix F for a data entry snapshot), can instead be sent via e-mail to Incidental.take@noaa.gov (preferred), sent by fax to (978) 281-9394, or called in to the GARFO PRD. The report must include at a minimum: (1) survey name and applicable information (e.g., vessel name, station number); (2) GPS coordinates describing the location of the interaction (in decimal degrees or degrees/minutes/seconds); (3) gear type (e.g., bottom trawl, gillnet, longline) or sonar (e.g., EK60 or ME70) involved; (4) time and date of the interaction; and (5) identification of the animal to the species level. We also request that in the "Comments" field of the PSIT entry the following information be provided: (1) a link to or acknowledgement that a clear photograph or video of the animal was taken (multiple photographs are suggested, including at least one photograph of the head scutes); (2) actual or estimated length, width, and weight of the animal; (3) ID numbers of external or PIT tags either recorded or applied to the animal; (4) condition of the animal upon retrieval and release/retention (e.g., alive uninjured, alive potentially injured, comatose or unresponsive, fresh dead, decomposed); and (5) a description of any

care or handling provided. If reporting within 48 hours is not possible (e.g., due to distance from shore or lack of ability to communicate via phone, fax, or email), the interaction must be reported as soon as the vessel is in a position to do so and absolutely no later than 48 hours after the vessel returns to port. If the PSIT database reporting form cannot be filled out and submitted to us, two alternate reporting formats (one developed previously by the NEFSC, the other developed by the GARFO PRD) have been included as Appendix G to this document.

15. To comply with RPM #5, the NEFSC Protected Species Branch must provide a tabular summary to the GARFO PRD within six months of completion of all on-water survey or cooperative research work for a given calendar year, providing a summary spreadsheet of ESA-listed species interactions that occurred by cruise/vessel/trip and species. Any reports required by Term and Condition #14 that have not been entered into the PSIT database or provided to the GARFO PRD must be included in this report. It is requested that this summary report be included as part of the annual “Omnibus data response” prepared each spring by the Protected Species Branch and sent to the GARFO PRD.
16. To comply with RPM #5, the NEFSC or its research partners must immediately suspend any fisheries or ecosystem research activities if a dead or injured sperm whale (or any other ESA-listed whale) is observed nearby. If we, based on the information available, and in coordination with the regional stranding network, determine that the death or injury of the animal could be attributable to the proposed actions in question, all survey activities on that trip must cease and consultation must be reinitiated.
17. To comply with RPM #5, the NEFSC shall submit an annual report on estimated sperm whale acoustic interactions to both the OPR and GARFO PRD not later than 90 days following the end of a given calendar year and a final report within 30 days following resolution of comments on the draft report. The report must contain annual line-kilometers surveyed during which the Simrad EK60 and ME70 sonar sources were predominant and pro-rated estimates of actual sperm whale take. For year #1, the draft report should cover the period from September 13, 2016 (the date the LOA was finalized), to December 31, 2017, and is due to the OPR and GARFO PRD no later than April 1, 2018. For subsequent years (2018 and on), the draft report should cover the period from January 1 to December 31 and be submitted by April 1 of the following year.

The RPMs, with their implementing terms and conditions, are designed to minimize and monitor the impact of incidental take that might otherwise result from the proposed actions. Specifically, these RPMs and Terms and Conditions will ensure that NMFS (inclusive of the NEFSC, its research partners, OPR, and GARFO PRD) monitors the impacts of the subject research projects in a way that allows for the detection, identification, and reporting of all interactions with ESA-listed species. The discussion below explains why each of these RPMs and Terms and Conditions are necessary or appropriate to minimize or monitor the level of incidental take associated with the proposed actions. The RPMs and Terms and Conditions involve only a minor change (i.e., addition of effort and investigation) to the proposed actions.

RPM #1 and the accompanying Terms and Conditions establish the protected species training and certifications that NEFSC-affiliated survey vessel and cooperative research staff must obtain or possess prior to being employed on a project that may result in the incidental take of ESA-listed species. These types of training will provide staff scientists and vessel crew members with adequate experience in the handling, resuscitation, sampling, release, and reporting of sperm whales, sea turtles, sturgeon, and salmon that may be incidentally taken over the course of the proposed actions.

RPM #2 and the accompanying Terms and Conditions establish the requirements for handling and resuscitating sea turtles, sturgeon, and salmon captured in gear used in NEFSC conducted and funded fisheries and ecosystem research in order to avoid the likelihood of injury or mortality to these species from the hauling, handling, and emptying of fishing gear.

RPM #3 and the accompanying Terms and Conditions specify the collection of information for any sea turtles, sturgeon, or salmon observed captured in the gear. This is essential for monitoring the impacts of the proposed actions and level of incidental take associated with them. Sampling of sea turtle, sturgeon, and salmon tissue is required for genetic analysis. The taking of biopsy samples for sea turtles and fin clips for sturgeon and salmon allows genetic analyses to be run to determine the nesting beach/DPS origin of sea turtles and the DPS origin of Atlantic sturgeon and Atlantic salmon. This allows us to determine if the actual level of take has been exceeded. These procedures do not harm sea turtles, sturgeon, or salmon and are a common practice in fisheries science. Tissue sampling does not appear to impair an animal's ability to swim and is not thought to have any long-term adverse impact. We have received no reports of injury or mortality to any sea turtles, sturgeon, or salmon sampled in this way.

RPM #4 and the accompanying Terms and Conditions establish the requirements for releasing or retaining sea turtles, sturgeon, and salmon captured in gear used in NEFSC conducted and funded fisheries and ecosystem research in order to provide live animals with the best chance for survival post-capture and to gather additional information on the cause of death of dead animals.

RPM #5 and the accompanying Terms and Conditions specify protocols for the reporting of information to the GARFO PRD for any sea turtles, sturgeon, or salmon observed captured, injured, or killed in fisheries or ecosystem research gear or sperm whales harassed, injured, or killed by acoustic sources. This is essential for monitoring the level of incidental take associated with the proposed actions and ensuring that we can track any exceedance of the ITS.