

additional charge of \$34.00 for each tire. The only component of the proposed charge attributable to overhead expenses is the \$50.00 that covers general facility costs and salaries relating to the testing, maintenance, and sale of the tires. In order to control these costs, NHTSA uses a minimal staff and relies extensively on electronic mail in processing orders for course monitoring tires. The \$50.00 overhead expense represents thirteen percent of the sale price of each tire, an amount that appears quite reasonable, particularly when compared to overhead charges in the range of 110 to 150 percent that are applied within the tire industry. Although it recognizes that it is the only source for the purchase of these tires, as a government agency, NHTSA is in no position to take advantage of this situation by charging what the RMA characterizes as "monopoly" rates. If it recovered more than its actual costs in the sale of course monitoring tires, NHTSA would be in violation of a law that prohibits government agencies from augmenting the funds that they are appropriated by Congress. In view of these circumstances, NHTSA is adopting the proposed charge of \$379.00 as the fee for the course monitoring tires that it sells.

Rulemaking Analyses and Notices

1. Executive Order 12866 (Federal Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under E.O. 12866. NHTSA has analyzed this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the amendment resulting from this rulemaking will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

The agency believes that motor vehicle and tire manufacturers and tire brand owners typically do not qualify as small entities. This amendment may affect small businesses, small organizations, and small governmental units to the extent that these entities purchase vehicles and tires. However, because the user fees established through this amendment can be spread

across a manufacturer's entire production, the amendment should have a negligible cost impact on vehicles and tires. For these reasons, vehicle manufacturers, small businesses, small organizations, and small governmental units that purchase motor vehicles should not be significantly affected by these user fees.

3. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws will be affected.

4. National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that it will not significantly affect the human environment.

5. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, P.L. 96-511, the agency notes that there are no information collection requirements associated with this rulemaking action.

6. Civil Justice Reform

This rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (49 U.S.C. 30111), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (49 U.S.C. 30161) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, § 575.104, *Uniform tire quality grading standards*, in Title 49 of the Code of Federal Regulations at Part 575, is amended as follows:

PART 575—[AMENDED]

1. The authority citation for Part 575 will continue to read as follows:

Authority: 49 U.S.C. 322, 30111, and 30123; delegation of authority at 49 CFR 1.50.

2. A new Appendix D is added to § 575.104, to read as follows:

§ 575.104 Uniform tire quality grading standards.

* * * * *

Appendix D—User Fees

1. *Course Monitoring Tires:* A fee of \$379.00 will be assessed for each course monitoring tire purchased from NHTSA at Goodfellow Air Force Base, San Angelo, Texas. This fee is based upon the direct and indirect costs attributable to: (a) The purchase of course monitoring tires by NHTSA, (b) a pro rata allocation of salaries and general facility costs associated with maintenance of the tires, (c) warehouse storage fees for the tires, and (d) testing fees paid by NHTSA to establish the base course wear rate for the tires.

2. *Use of Government Traction Skid Pads:* A fee of \$34.00 will be assessed for each hour, or fraction thereof, that the traction skid pads at Goodfellow Air Force Base, San Angelo, Texas are used. This fee is based upon the direct and indirect costs attributable to: (a) depreciation on facilities and equipment comprising or used in conjunction with the traction skid pads (i.e., skid system, water truck, air compressor, skid track, tractor sweeper, equipment, buildings), (b) the calibration of the traction skid pads, and (c) a pro rata allocation of salaries and general facility costs associated with maintenance of the traction skid pads.

3. Fee payments shall be by check, draft, money order, or Electronic Funds Transfer System made payable to the Treasurer of the United States.

4. The fees set forth in this Appendix continue in effect until adjusted by the Administrator of NHTSA. The Administrator reviews the fees set forth in this Appendix and, if appropriate, adjusts them by rule at least every 2 years.

Issued on: July 27, 1995.

Ricardo Martinez,
Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 210, 216, 250, 270, and 604

[Docket No. 950718182-5182-01;
I.D. 070695B]

RIN 0648-A108

Removal of Regulations

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

ACTION: Final rule.

SUMMARY: NMFS amends the Code of Federal Regulations (CFR) to remove regulations that are no longer needed. This action is consistent with the President's Regulatory Reform Initiative.

EFFECTIVE DATE: August 2, 1995.

FOR FURTHER INFORMATION CONTACT: George H. Darcy, NMFS, 301/713-2344.

SUPPLEMENTARY INFORMATION:

On March 4, 1995, as part of the President's Regulatory Reform Initiative, the President directed agencies to conduct a page-by-page review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform. After conducting a review of 50 CFR parts 210, 216 (subparts G and H), 250, 270, and 604, it was determined that they were not needed and could be removed.

50 CFR Part 210

Part 210 contains regulations that were promulgated under the North Pacific Fisheries Act of 1954, which implemented the International Convention for the High Seas Fisheries of the North Pacific Ocean. After that convention was replaced by the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, the 1954 statute was repealed by Public Law 102-567. Thus, part 210 is without statutory basis and is being removed.

50 CFR Part 216, Subparts G and H

Sections 101(a)(2), 101(a)(3)(A), and 101(b) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371(a)(2), 1371(a)(3)(A), and 1371(b)) authorize the Assistant Administrator for Fisheries, NOAA (AA) to (1) issue regulations governing the taking of marine mammals incidental to commercial fishing operations; (2) waive section 101's moratorium on the taking and importing of marine mammals under the AA's jurisdiction, and adopt regulations with respect to the taking and importing of such mammals; and (3) prescribe regulations governing the taking of depleted marine mammals by any Indian, Aleut, or Eskimo, respectively. In prescribing regulations to carry out the provisions of these sections, section 101 requires that the procedures of section 103 (16 U.S.C. 1373) be followed. Section 103(d) requires that regulations be made on the record after opportunity for an agency hearing on such regulations and on any determination by the AA to waive the

moratorium pursuant to section 101(a)(3)(A) (16 U.S.C. 1371(a)(3)(A)).

On March 5, 1975 (40 FR 10183), NMFS issued rules of practice and procedure for all hearings conducted pursuant to section 103(d). Subpart G of part 216 contains these rules. Since that time, MMPA 103(d) hearings have been held for only six rulemaking proceedings. As a result of amendments to the MMPA in 1984, 1991, and 1994, it is unlikely that section 103(d) hearings will be conducted in the foreseeable future. If section 103(d) rules of practice and procedure are needed in the future, NMFS will provide parties and the presiding Administrative Law Judge with proposed guidance for conducting the proceeding. As part of the pre-hearing conference, the participants will determine the process for conducting the hearing. Subpart H of part 216 contains only a reference note that is no longer needed. Because part 216 subparts G and H are no longer necessary, they are being removed.

50 CFR Part 250

Part 250 of title 50 CFR contains regulations that implemented section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c), which established a Fisheries Loan Fund (Fund). Under that Act, the Fund ceased to exist on September 30, 1986, and any balance remaining in the Fund was transferred to the Treasury as miscellaneous receipts. Thus, part 250 is no longer needed and is being removed.

50 CFR Part 270

Part 270 of title 50 CFR governs the establishment and conduct of Fish and Seafood Promotional Councils (Councils) under the authority of the Fish and Seafood Promotion Act of 1986. That Act authorized the establishment of a National Council to carry out generic marketing programs, including consumer education and research. Congress funded the National Council, but did not fund the Regional Councils. Funding for the National Council expired in fiscal year 1991; no Regional Councils have been established by the industry, and NMFS is unaware of any plans to do so. Therefore, part 270 is no longer needed and is being removed.

50 CFR Part 604

Part 604 of title 50 CFR contains abbreviated summaries of laws, other than the Magnuson Fishery Conservation and Management Act, that

are applicable to the development of fishery management plans. The information in part 604 is readily available to the public elsewhere, and its maintenance in part 604 is not needed. Therefore, part 604 is being removed.

Classification

Because this rule only removes regulations that are no longer necessary, no useful purpose would be served by providing prior notice and opportunity for public comment on this rule. Accordingly, under 5 U.S.C. 553(b)(B), the AA, for good cause, finds that it is unnecessary to provide prior notice and an opportunity for public comment for this rule. Also, because this rule only removes regulations that are no longer needed, the AA, for good cause, finds that no useful purpose would be served by delaying the rule's effective date for 30 days. Therefore, this rule is made effective upon publication.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

List of Subjects

50 CFR Part 210

Fisheries.

50 CFR Part 216

Administrative Practice and procedure, Imports, Indians, Marine Mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 250

Fisheries, Fishing vessels, Loan programs-business, Reporting and recordkeeping requirements.

50 CFR Part 270

Administrative practice and procedure, Fisheries, Reporting and recordkeeping requirements, Seafood.

50 CFR Part 604

Administrative practice and procedure, Fisheries, Fishing.

Dated: July 26, 1995.

Richard H. Schaefer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 210; part 216, subparts G (consisting of §§ 216.70-216.90) and H (Note); and parts 250, 270, and 604 are removed; and subchapter H is vacated.

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