

Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. I certify that a final rule based on this proposal will have no significant economic impact on a substantial number of small entities.

The following is my statement providing the factual basis for the certification (5 U.S.C. 605(b)). The proposed amendments primarily affect manufacturers of motor vehicles. Manufacturers of motor vehicles are generally not small businesses within the meaning of the Regulatory Flexibility Act.

The Small Business Administration's regulations define a small business in part as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)) SBA's size standards are organized according to Standard Industrial Classification Codes (SIC), SIC Code 3711 "Motor Vehicles and Passenger Car Bodies" has a small business size standard of 1,000 employees or fewer.

For manufacturers of passenger cars and light trucks, NHTSA estimates there are at most five small manufacturers of passenger cars in the U.S. Since each manufacturer serves a niche market, often specializing in replicas of "classic" cars, production for each manufacturer is fewer than 100 cars per year. Thus, there are at most 500 cars manufactured per year by U.S. small businesses.

In contrast, in 2001, there are approximately nine large manufacturers producing passenger cars, and light trucks in the U.S. Total U.S. manufacturing production per year is approximately 15 to 15 and a half million passenger cars and light trucks. We do not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production per year.

Further, small organizations and governmental jurisdictions would not be significantly affected as the price of motor vehicles ought not to change as the result of this proposed rule. As explained above, this action is limited to the proposed adoption of a statutory directive, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

Finally, this action would not affect our civil penalty policy under the Small Business Regulatory Enforcement Fairness Act (62 FR 37115, July 10, 1997). We shall continue to consider the appropriateness of the penalty to the size of the business charged.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), we state that there are no requirements for information collection associated with this rulemaking action.

National Environmental Policy Act

We have also analyzed this rulemaking action under the National Environmental Policy Act and determined that it has no significant impact on the human environment.

Executive Order 12612 (Federalism)

We have analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 12612, and have determined that it has no significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This proposed rule does not have a retroactive or preemptive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. § 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. Because this rule will not have a \$100 million effect, no Unfunded Mandates assessment will be prepared.

List of Subjects in 49 CFR Part 578

Imports, Motor vehicle safety, Motor vehicles, Rubber and Rubber Products, Tires, Penalties.

1. The authority citation for 49 CFR Part 578 would continue to read as follows:

Authority: Pub. L. 101-410, Pub. L. 104-134, 49 U.S.C. 30165, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115; delegation of authority at 49 CFR 1.50.

2. Section 578.6 would be amended by revising the last sentence of paragraph (f)(1), the last sentence of paragraph (g)(1), and paragraph (g)(2) to read as follows:

PART 578—CIVIL AND CRIMINAL PENALTIES

* * * * *

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

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(f) *Odometer tampering and disclosure.* (1) * * * The maximum civil penalty under this paragraph for a related series of violations is \$120,000.

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(g) *Vehicle theft prevention.* (1) * * * The maximum penalty under this paragraph for a related series of violations is \$300,000.

(2) A person that violates 49 U.S.C. 33114(a)(5) is liable to the United States government for a civil penalty of not more than \$120,000 a day for each violation.

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Issued on: May 15, 2001.

Kenneth N. Weinstein,
Associate Administrator for Safety Assurance.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 010419099-1099-01; I.D. 040201A]

RIN 0648-AP19

Fisheries off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Hawaiian Islands; Control Date

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

ACTION: Advance notice of proposed rulemaking; consideration of a control date; request for comments.

SUMMARY: This document announces that persons who enter the offshore pelagic handline fishery around the Cross Seamount, four NOAA weather buoys, and the "Bigeye Buoy" in the U.S. exclusive economic zone (EEZ) around Hawaii, after February 15, 2001 (control date), may not be assured of continued participation in the fishery if, in the future, the Western Pacific Fishery Management Council (Council) prepares, and NMFS approves, a program limiting entry or effort. This control date supersedes the previous control date of July 2, 1992. This document does not commit the Council to limiting effort or preclude the

Council from using any other date for determining future participation in this fishery. The Council may also use other criteria to limit fishing effort or participation in a limited entry program if one is developed in the future.

DATES: Comments must be submitted by July 2, 2001.

ADDRESSES: Submit written comments to Dr. Charles Karnella, Administrator, NMFS, Pacific Islands Area Office (PIAO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700; or fax to 808-973-2941. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, PIAO, 808-973-2937.

SUPPLEMENTARY INFORMATION: At its 108th meeting, the Council established February 15, 2001, as a new control date for the offshore pelagic handline fishery around the Hawaiian Islands. The previously established control date (July 2, 1992) is more than 8 years old and considered to be outdated (57 FR 36637, August 14, 1992). The new control date, which supersedes the old control date, applies to the Cross Seamount, four NOAA weather buoys, and one University of Hawaii research buoy off the Hawaiian Islands ("Bigeye Buoy"). The precise areas of application would be determined in a future rulemaking,

should the Council decide to proceed with limiting entry or effort. This action responds to concerns associated with changes to the management program governing the Hawaii-based pelagic longline fishery, the participants of which may switch to the offshore pelagic handline fishery resulting in the substantial and unregulated expansion of the currently small fishery.

At present, the fishery consists of 15 to 20 Hawaii-based, small fishing vessels (<50 ft or 15.2 m) employing hook and line handline gear to target bigeye and yellowfin tuna that are seasonally abundant at the Cross Seamount and four NOAA weather buoys, located about 160 nautical miles from the islands of Hawaii. A fifth buoy, the "Bigeye Buoy" was placed in the same vicinity approximately 2 years ago by University of Hawaii fishery researchers studying bigeye habitat. This buoy has also been found to aggregate fish and has been utilized by Hawaii-based pelagic handline vessels. The vessels in this fishery primarily operate from the island of Hawaii, although one or two are based on the island of Oahu.

The Council believes that there is a risk of speculative entry into the fishery while the potential benefits and costs of limited entry alternatives and the

development of a regulatory amendment to address a substantially expanded fishery are being evaluated. The control date is designed to discourage speculative entry during this period of analysis, as well as to provide notification to new participants that their access may be restricted in the future. The control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the offshore pelagic handline fishery. Fishermen are not guaranteed future participation in this fishery, regardless of their level of participation before or after the control date. The Council may choose a different control date or it may choose a management regime that does not involve a control date. Other criteria, such as documentation of commercial landings and sales, may be used to determine eligibility for participation in the fishery. The Council may also choose to take no further action to control entry or access to the fishery.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 13, 2001.

William T. Hogarth,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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