

the transition to NG911? Should there be a single Federal entity to ensure compliance with required standards, coordination, implementation, and policies? Should there be a national policy established by the Commission or another Federal entity to ensure consistent regulation? What entity should enable and instigate the development and deployment of shared State-wide ESInets and related cooperative working agreements between Federal, State, tribal, and local agencies? What functions and responsibilities should be performed at the Federal, regional, State, Tribal, and local levels in the implementation, transition to, and ongoing operation of NG911 in areas including networks, NG911 functional elements, databases, system operation, and PSAP operation? What statutory or regulatory changes, if any, would be necessary for the Commission, other Federal agencies, States, Tribes, or localities to facilitate and oversee NG911?

86. How should the FCC coordinate with other Federal agencies on issues related to the deployment of NG911, such as mobile health, telemedicine and disability access? How should the FCC and other Federal agencies coordinate with the states and Tribal governments? Should the FCC provide oversight to the states as they assume leadership roles in the transition to and implementation of NG911 systems within and between states?

V. Procedural Matters

A. Paperwork Reduction Act

87. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 47 U.S.C. 3506(c)(4).

B. Ex Parte Presentations

88. The inquiry this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is

required. Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.

C. Comment Filing Procedures

89. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

90. *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

VI. Ordering Clause

91. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 218, 303(b), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 218, 303(b), 303(r), and 403, this Notice of Inquiry *is adopted*.

Federal Communications Commission
Marlene H. Dortch,
Secretary.

[FR Doc. 2011-565 Filed 1-12-11; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA 2011-0005]

RIN 2127-AK06

Consumer Information Regulations; Fees for Use of Traction Skid Pads

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This NPRM proposes to amend NHTSA's consumer information regulations on uniform tire quality grading standards by updating the fees currently charged for use of the traction skid pads at NHTSA's San Angelo Test Facility, formerly called the Uniform Tire Quality Grading Test Facility, in San Angelo, Texas and by eliminating fees for course monitoring tires, which are no longer supplied by NHTSA. This NPRM updates the fees in accordance with Office of Management and Budget Circular A-25, which governs fees assessed for Government services and use of Government goods or resources.

DATES: Comments to this proposal must be received on or before March 14, 2011.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments on the electronic docket site by clicking on "Help" or "FAQ."

- *Mail:* Docket Management Facility, M-30, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Rm. W12-140, Washington, DC 20590.

- *Hand Delivery or Courier:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493-2251.

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202-366-9826.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://www.dot.gov/privacy.html>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: *For program issues:* Mr. George Gillespie, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366-5299.

For legal issues: Ms. Carrie Gage, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366-6051.

SUPPLEMENTARY INFORMATION:

I. Background

Section 203 of the National Traffic and Motor Vehicle Safety Act of 1966 directs the Secretary of Transportation to prescribe standards establishing "a uniform quality grading system for motor vehicle tires." 49 U.S.C. 30123. Those standards are found at 49 CFR 575.104. To aid consumers in making an informed choice in the purchase of passenger car tires, the standards require motor vehicle and tire manufacturers and tire brand owners to label such tires with information

indicating their relative performance in the areas of treadwear, traction and temperature resistance. See 49 CFR 575.104(a).

The Uniform Tire Quality Grading Standards (UTQGS), 49 CFR 575.104, state that tire traction is "evaluated on skid pads that are established, and whose severity is monitored, by the NHTSA both for its compliance testing and for that of regulated persons." 49 CFR 575.104(f)(1). As further described in the standards, the test pads are paved with asphalt and concrete surfaces that have specified locked wheel traction coefficients when evaluated in a manner prescribed in the standards. The traction skid pads are located at NHTSA's San Angelo Test Facility. 49 CFR 575.104, App. B. In addition to this government test facility, traction skid pads have been constructed at several commercial facilities.

The current fees charged for use of the traction skid pads at the San Angelo Test Facility, as well as fees charged for course monitoring tires, were established by final rule published in the **Federal Register** on August 2, 1995. See 60 FR 39269 (Aug. 2, 1995).¹ Pursuant to Appendix D to 49 CFR 575.104, the fees charged to manufacturers for use of the Government traction skid pads continue in effect until adjusted by the Administrator of NHTSA.

II. Proposal

This NPRM proposes to update, in accordance with Office of Management and Budget (OMB) Circular A-25, the fee charged to manufacturers for use of the agency's traction skid pads at the San Angelo Test Facility. It also proposes to remove provisions concerning the fees charged for course monitoring tires, as NHTSA no longer supplies these tires for purchase by manufacturers. Based on a current assessment using a "market price" analysis as outlined below, NHTSA proposes to update the fees for use of the facility from \$34.00 an hour, established in 1995, to \$125 an hour. As discussed below, NHTSA believes that this proposed fee reflects the current market price for use of traction skid pads.

OMB Circular A-25 establishes Federal policy regarding fees assessed

¹The August 2, 1995 final rule responded to a Department of Transportation Office of Inspector General (OIG) audit of NHTSA's facility in San Angelo in which the OIG concluded that NHTSA was not charging a user fee for the use of the traction skid pads at the facility and was not recovering the full cost of the course monitoring tires that it sold at San Angelo, contrary to OMB Circular A-25. See 60 FR 39269.

for Government services and for sale or use of Government goods or resources. The Circular expresses the general policy that "[a] user charge * * * will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public." According to the Circular, a "special benefit" accrues and a user charge is assessed when a Government service "is performed at the request of or for the convenience of the recipient, and is beyond the services regularly received by other members of the same industry or group or by the general public." Manufacturer use of NHTSA's testing facility is a special benefit because use of the facility is beyond the services regularly received by the industry or the general public.² Accordingly, NHTSA assesses a user charge for the use of the traction track.

For the purposes of assessing user charges, the Circular requires that, when the Government is acting in its capacity as sovereign, user charges be sufficient to recover the full cost to the Government of providing the good or service. When the Government is not acting as sovereign, however, user charges are to be based on market prices. The Government acts in its capacity as sovereign when it uses powers over which it has a monopoly. See e.g., *U.S. v. Reyes*, 87 F.3d 676, 681 (5th Cir. 1996). The Government may act in a sovereign capacity, for example, when it is the only source of a good or service, such as where the Government issues a license. See *National Park Service—Special Park Use Fees*, B-307319, *6 (Aug. 23, 2007).

The agency is not acting in its capacity as sovereign in making the San Angelo Test Facility available for traction testing by manufacturers. That facility serves primarily for NHTSA's own compliance testing of manufacturers' tires. As we recently stated with regard to the UTQGS regulations, manufacturers are not restricted to the use of the traction skid pads at the government facility in San Angelo. Rather, manufacturers may test their tires wherever they choose. See 75 FR 15894, 15913 (March 30, 2010).³

² While there is a public benefit in making available a standardized tire grading facility for manufacturer use, the public benefits are incidental to the special benefits derived by the manufacturers. According to Circular A-25, when the public obtains a benefit as a necessary consequence of an agency's provision of special benefits to an identifiable recipient, an agency should seek to recover the applicable fee from the identifiable recipient.

³ It is the responsibility of each tire manufacturer to certify that its tires comply with applicable Federal safety standards.

Because NHTSA's own compliance tests are conducted at the San Angelo Test Facility, tire manufacturers often choose to do so as well.

III. Proposed Fee Update Based on Market Price

Pursuant to Circular A-25, "Market price' means the price for a good, resource, or service that is based on competition in open markets, and creates neither a shortage nor a surplus of the good, resource, or service." Where there is substantial competitive demand for a good, resource, or service, the market price is determined by commercial practice, for example, by competitive bidding, or by reference to the prevailing price of the same or similar good, resources, or services, adjusted to reflect demand, level of service and quality of the good or service.

To determine the appropriate market price for use of the San Angelo Test Facility, NHTSA surveyed several commercial facilities with traction skid pads available for public use. Prices for the hourly use of traction skid pads ranged from approximately \$115 per hour to approximately \$200 per hour. From its own experience, NHTSA believes that discounted rates may be available based on volume use or advance planning. Accordingly, NHTSA believes it is appropriate to take the availability of discounts into account in arriving at a determination of market rate. Taking a conservative approach, we propose to set the rate for use of the traction skid pads at the lower end of this range—\$125 per hour. NHTSA welcomes comments regarding whether our proposed rate for hourly use of the traction skid pads at the San Angelo Test Facility accurately reflects the market price for such services.

IV. Public Participation

Interested persons are invited to comment on this notice of proposed rulemaking. The procedure for submitting comments is noted below.

How do I prepare and submit written comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number at the beginning of this NPRM in your comments. Your primary comments cannot exceed 15 pages. See 49 CFR 553.21. We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach additional documents to your primary comments.

There is no limit to the length of the attachments.

Please submit your comments by any of the following methods:

- *Federal eRulemaking Portal*: go to <http://www.regulations.gov>. Follow the instructions for submitting comments to the electronic docket site by clicking on "Help" or "FAQ."
- *Mail*: Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery or Courier*: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 am and 5 pm Eastern Time, Monday through Friday, except Federal holidays.
- *Fax*: (202) 493-2251.
- If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.⁴
- Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>.

How can I be sure that my comments were received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting

⁴ Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

forth the information specified in our confidential business information regulation. See 49 CFR 512.

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth above.

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments received after that date. Therefore, if interested persons believe that any new information the agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rule.

How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (e.g., the comments submitted in response to this document by other interested persons) at any time by going to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 am and 5 pm Eastern Time, Monday through Friday, except Federal holidays.

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees,

or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in the Executive Order.

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking is not significant as it does not implicate any of the above-enumerated concerns. Accordingly, the Office of Management and Budget has not reviewed this rulemaking document under Executive Order 12886. Further, NHTSA has determined that the rulemaking is not significant under the Department of Transportation's regulatory policies and procedures.

Based on the type of fees and the anticipated use of the test track, NHTSA believes that the costs of the final rule would be minimal and would not warrant preparation of a regulatory evaluation. The proposed rule would increase fees charged to private manufacturers for use of a government facility to prevailing market rates. Manufacturers have a choice as to whether to use this government facility or a private commercial facility. As a result, this action does not involve any substantial public interest or controversy. Furthermore, NHTSA anticipates that any impact on the sale price of tires would be minimal, because an increase in testing fees would likely be distributed across a manufacturer's sales volume. There would be no substantial effect upon State and local governments. There would be no substantial impact upon a major transportation safety program.

B. National Environmental Policy Act

NHTSA has evaluated this proposed action for purposes of the National Environmental Policy Act and has determined that it would not have a significant effect on the quality of the human environment.

C. Regulatory Flexibility Act

NHTSA has considered the impact of this proposed rulemaking under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996). NHTSA believes that the proposed rule would not have a significant economic impact on a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. 605(b)). Tire manufacturers are not small entities.

The proposed amendments would affect businesses that conduct contract traction testing, some of which are small businesses within the meaning of the Regulatory Flexibility Act; however, the agency does not believe that this proposed rule would result in a significant economic impact on these entities. Under the proposed standards, the fees paid for use of the government facility would be essentially equivalent to those paid to a commercial testing facility—the market rate. The agency believes that small governmental jurisdictions would be only minimally affected by the proposed rule since they are generally not large scale purchasers of vehicles tires. Furthermore, even in the case of substantial purchases, as noted above, costs passed on to consumers are expected to be minimal since testing fees would likely be distributed across a manufacturer's sales volume.

D. Executive Order 13132 (Federalism)

Executive Order 13132 on "Federalism," 64 FR 43255 (Aug. 10, 1999), requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." Executive Order 13132 defines the term "policies that have federalism implications" to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

The proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. Accordingly, Section 6 of the Executive Order does not apply to this rulemaking action.

E. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988 "Civil Justice Reform," 61 FR 4729 (Feb.

7, 1996), NHTSA has considered whether this rulemaking would have any retroactive effect. The proposed rule would not have any retroactive effect.

F. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, requires agencies to prepare a written assessment of the costs, 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 (adjusted for inflation with the base year of 2005). Adjusting this amount by the implicit gross domestic product price deflator for 2009 results in \$135 million (109.770/81.536 = 1.35).

This proposed rule will not result in the expenditure by State, local, or Tribal governments, in the aggregate, of more than \$135 million annually, and will not result in an expenditure of that magnitude by private entities. Because a final rule based on this proposal would not require expenditures exceeding \$135 million annually, this action is not subject to the requirements of Sections 202 and 205 of the UMRA.

G. Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. The proposed rule does not require the collection of information by a Federal agency. Accordingly, the PRA is not applicable to this action.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN that appears in the heading on the first page of this document to find this action in the Unified Agenda.

I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?

- Are the requirements in the rule clearly stated?
 - Does the rule contain technical language or jargon that isn't clear?
 - Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
 - Would more (but shorter) sections be better?
 - Could we improve clarity by adding tables, lists, or diagrams?
 - What else could we do to make the rule easier to understand?
- If you have any responses to these questions, please include them in your comments on this proposal.

J. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an organization, business, labor union, *etc.*). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://www.dot.gov/privacy.html>.

List of Subjects in 49 CFR Part 575

Consumer protection, Incorporation by reference, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Part 575 as follows:

PART 575—CONSUMER INFORMATION

1. The authority citation for part 575 continues to read as follows:

Authority: 49 U.S.C. 32302, 32304A, 30111, 30115, 30117, 30123, 30166, and 30168, Pub. L. 104–414, 114 Stat. 1800, Pub. L. 109–59, 119 Stat. 1144, Pub. L. 110–140, 121 Stat. 1492, 15 U.S.C. 1232(g); delegation of authority at 49 CFR 1.50.

2. Revise Appendix D to § 575.104 to read as follows:

§ 575.104 Uniform tire quality grading standards.

* * * * *

Appendix D—User Fees

1. *Use of Government Traction Skid Pads:* A fee of \$125 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 market price of the use of the traction skid pads.

2. Fee payments shall be by check, draft, money order, or Electronic Funds Transfer

System made payable to the Treasurer of the United States.

3. The fee set forth in this Appendix continues in effect until adjusted by the Administrator of NHTSA. The Administrator reviews the fee set forth in this Appendix and, if appropriate, adjusts it by rule at least every 2 years.

Issued on: January 10, 2011.

Claude Harris,

Acting Associate Administrator for Enforcement.

[FR Doc. 2011–643 Filed 1–12–11; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 101029546–0547–01]

RIN 0648–BA39

Atlantic Highly Migratory Species; Bluefin Tuna Bycatch Reduction in the Gulf of Mexico Pelagic Longline Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to require the use of “weak hooks” in the Gulf of Mexico (GOM) pelagic longline (PLL) fishery. A weak hook is a circle hook that meets NMFS’ current size and offset restrictions for the GOM PLL fishery, but is constructed of round stock wire that is thinner-gauge than the circle hooks currently used, *i.e.*, no larger than 3.65 mm in diameter. Weak hooks can allow incidentally hooked bluefin tuna (BFT) to escape capture because the hooks are more likely to straighten when a large fish is hooked. Requiring weak hooks in the GOM will reduce bycatch of BFT, allow the long-term beneficial socio-economic benefits of normal operation of directed fisheries in the GOM with minimal short-term negative socio-economic impacts, and have both short- and long-term beneficial impacts on the stock status of Atlantic BFT, an overfished species. Since 2007, NMFS has conducted research on weak hooks used on PLL vessels operating in the GOM to reduce the incidental catch of large BFT during directed PLL fishing for other species. Preliminary results show that the use of a weak hook can significantly reduce the amount of BFT caught incidentally

by PLL vessels in the GOM. The purpose of the proposed action is to reduce PLL catch of Atlantic BFT in the GOM, which is the only known BFT spawning area for the western Atlantic stock of BFT. This action would be consistent with the advice of the International Commission for the Conservation of Atlantic Tunas (ICCAT) Standing Committee for Research and Statistics (SCRS) that ICCAT may wish to protect the strong 2003 year class until it reaches maturity and can contribute to spawning. The purpose is also to allow directed fishing for other species to continue within allocated BFT sub-quota limits. This measure would be consistent with the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), including the BFT rebuilding program.

DATES: Written comments will be accepted until February 12, 2011. NMFS will hold three public hearings on this proposed rule on February 7, 2011, in Silver Spring, MD; February 9, 2011, in Panama City, FL; and February 10, 2011, in Kenner, LA to receive comments from fishery participants and other members of the public regarding this proposed rule. An operator-assisted conference call will be held to receive comments, only on this proposed rulemaking, from HMS Advisory Panel members on February 8, 2011. This is not an HMS Advisory Panel meeting, and the conference call will be open to members of the public, who may observe and comment to the extent time permits. Please see the **SUPPLEMENTARY INFORMATION** section of this proposed rule for specific dates, times, and locations.

ADDRESSES: The public hearings will be held in Maryland, Florida, and Louisiana. Please see the **SUPPLEMENTARY INFORMATION** section of this ANPR for specific dates, times, and locations.

You may submit comments, identified by 0648–BA39, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal at <http://www.regulations.gov>
- Fax: 301–713–1917, Attn: Margo Schulte-Haugen
- Mail: 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope “Comments on the Proposed Rule to Reduce Bluefin Tuna Bycatch in the Gulf of Mexico.”

- Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and generally will be