

Executive Order 12866 and the DOT Regulatory Policies and Procedures, I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The amendment primarily affects 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 1998, 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 per year. NHTSA does 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 are not be significantly affected as the price of motor vehicles ought not to change as the result of this final rule.

#### *Executive Order 12612 (Federalism)*

This rulemaking action has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that this rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### *Civil Justice*

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, 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. 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.

#### *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 final rule does not have a \$100 million effect, no Unfunded Mandates assessment has been prepared.

#### **List of Subjects in 49 CFR Part 571**

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

#### **PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

1. The authority citation for part 571 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

#### **§ 571.108 [Amended]**

2. Section 571.108 is amended by removing paragraph S7.8.2.3.

Issued on: November 3, 1998.

**James R. Hackney,**

*Acting Associate Administrator for Safety Performance Standards.*

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#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 971208298-8055-02; I.D. 111298A]

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod in the Bering Sea and Aleutian Islands**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Reallocation.

**SUMMARY:** NMFS is reallocating the projected unused amount of Pacific cod from trawl catcher/processors and trawl catcher vessels to vessels using fixed gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 1998 total allowable catch (TAC) of Pacific cod to be harvested.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), November 12, 1998, until 2400 hrs, A.l.t., December 31, 1998.

**FOR FURTHER INFORMATION CONTACT:** Andrew N. Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR parts 600 and 679.

As of October 31, 1998, the Acting Administrator, Alaska Region, NMFS, has determined that approximately 4,097 metric tons (mt) of Pacific cod remain in the catcher/processor allocation and 5,975 mt remain in the catcher vessel allocation. Trawl catcher/processors will not be able to harvest 1,500 metric tons (mt) of Pacific cod, and the trawl catcher vessels, 5,000 mt of Pacific cod, allocated to those sectors under § 679.20(a)(7)(i)(B).

Therefore, in accordance with § 679.20(a)(7)(ii)(B), NMFS is apportioning the projected unused amount, 1,500 mt, of Pacific cod from trawl catcher/processors to vessels using fixed gear and 5,000 mt from trawl catcher vessels to vessels using fixed gear.

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific cod TAC. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only disrupt the FMP's objective of providing a portion of the Pacific cod TAC for fixed gear in the BSAI. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

**Classification**

This action is taken under 50 CFR 679.20, and is exempt from OMB review under E.O. 12866.

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

Dated: November 12, 1998.

**Gary C. Matlock,**

*Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 98-30693 Filed 11-12-98; 4:43 pm]

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