

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 18, 2011.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

[FR Doc. 2011-7631 Filed 3-30-11; 8:45 am]

**BILLING CODE 6560-50-P**

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-2009-0108]

#### Final Vehicle Safety Rulemaking and Research Priority Plan 2011-2013

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

**ACTION:** Plan availability.

**SUMMARY:** This document announces the availability of the Final NHTSA Vehicle

Safety and Fuel Economy Rulemaking and Research Priority Plan 2011-2013 (Priority Plan) in Docket No. NHTSA-2009-0108. This Priority Plan is an update to the Final Vehicle Safety Rulemaking and Research Priority Plan 2009-2011 (October 2009 Plan) that was announced in the November 9, 2009, edition of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Joseph Carra, Director of Strategic Planning and Integration, National Highway Traffic Safety Administration, Room W45-336, 1200 New Jersey Avenue, SE., Washington, DC 20590.

*Telephone:* 202-366-0361. *E-mail:* [joseph.carra@dot.gov](mailto:joseph.carra@dot.gov).

**SUPPLEMENTARY INFORMATION:** On November 9, 2009, NHTSA published a Final Notice in the **Federal Register** (74 FR 57623) announcing the availability of the October 2009 Plan. Today's document announces the availability of the Final NHTSA Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan 2011-2013.

This plan is an internal management tool as well as a means to communicate to the public NHTSA's highest priorities to meet the Nation's motor vehicle safety challenges. Among them are programs and projects involving rollover crashes, children (both inside as well as just near vehicles), motorcoaches and fuel economy that must meet Congressional mandates or Secretarial commitments. Since these are expected to consume a significant portion of the agency's rulemaking resources, they affect the schedules of the agency's other priorities listed in this plan. This plan lists the programs and projects the agency anticipates working on even though there may not be a rulemaking planned to be issued by 2013, and in several cases, the agency doesn't anticipate that the research will be done by the end of 2013. Thus, in some cases the next step would be an agency decision in 2013 or 2014.

For purposes of apprising the public on the status of progress relative to the efforts delineated in the October 2009 Plan, NHTSA has included in the current Priority Plan a section (Section V) that compares the October 2009 Plan to the current Priority Plan.

Interested persons may obtain a copy of the plan, "Final Vehicle Safety Rulemaking and Research Priority Plan 2011-2013," by downloading a copy of the document. To download a copy of the document, go to <http://www.regulations.gov> and follow the online instructions, or visit Docket Management Facility at U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground

Floor, Room W12-140, Washington, DC 20590-0001 and reference Docket No. NHTSA-2009-0108.

**Authority:** 49 U.S.C. 30111, 30117, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

**Ronald L. Medford,**

*Deputy Administrator.*

[FR Doc. 2011-7433 Filed 3-30-11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 100803320-1201-01]

RIN 0648-AY93

#### Fisheries in the Western Pacific; Mechanism for Specifying Annual Catch Limits and Accountability Measures

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This proposed rule would establish procedures and timing for specifying annual catch limits (ACLs) and accountability measures (AMs) for western Pacific fisheries. The proposed rule is procedural in nature, and is intended to help NMFS end and prevent overfishing, rebuild overfish stocks, and achieve optimum yield.

**DATES:** Comments on the proposed rule must be received by May 16, 2011.

**ADDRESSES:** Comments on this proposed rule, identified by 0648-AY93, may be sent to either of the following addresses:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal <http://www.regulations.gov>; or

- *Mail:* Mail written comments to Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814-4700.

*Instructions:* Comments must be submitted to one of the two addresses to ensure that the comments are received, documented, and considered by NMFS. Comments sent to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without

change. All personal identifying information (*e.g.*, name, address, *etc.*) submitted voluntarily by the sender may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

This proposed rule would implement the recommendations of the Western Pacific Fishery Management Council (Council) in Amendment 1 to the Fishery Ecosystem Plan (FEP) for the Pacific Remote Islands Areas (PRIA), Amendment 2 to the American Samoa FEP, Amendment 2 to the Mariana Archipelago FEP, Amendment 3 to the Hawaii FEP, and Amendment 4 to the Western Pacific Pelagic FEP. The amendments establish a procedural framework (mechanism) that the Council would use to set ACLs and AMs in the western Pacific, and are consolidated into a single document. The amendments are currently under review by the Secretary of Commerce. The amendment document, which contains an environmental assessment and background information on this proposed rule, is available from <http://www.regulations.gov>, and from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, <http://www.wpcouncil.org>.

**FOR FURTHER INFORMATION CONTACT:** Jarad Makaiau, NMFS PIR, Sustainable Fisheries, 808-944-2108.

**SUPPLEMENTARY INFORMATION:** In 2006, Congress amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to include provisions to help NMFS prevent and end overfishing and rebuild overfished stocks, the objectives of National Standard 1. Specifically, the Magnuson-Stevens Act requires that regional fishery management councils develop fishery management plans that include a mechanism for specifying ACLs at a level such that overfishing does not occur and that does not exceed the fishing level recommendation of a council's Scientific and Statistical Committee (SSC). AMs are also required to prevent ACLs from being exceeded, and to correct or mitigate overage of an ACL should it occur. Currently, the FEPs do not contain ACLs or AMs, nor do they contain a procedure by which to establish ACLs or AMs; the Council addressed this issue in the amendments

to the FEPs, which this proposed rule would implement.

The Magnuson-Stevens Act requirements for ACLs and AMs does not apply to fisheries for stocks that are subject to international fishery agreements in which the U.S. participates, or for species with life cycles of approximately one year. These stocks are excepted either because ACLs and AMs are provided for by the international agreements (and establishing ACL mechanisms and AMs on just the U.S. portion of the fishery is unlikely to have any impact on ending overfishing and rebuilding), or because ACLs or AMs are unnecessary or impractical for short-lived species. Accordingly, this proposed rule contains these two types of exceptions. Even though they are exempt from the ACL and AM requirements, the FEPs for international stocks must identify status determination criteria and maximum sustainable yield, and for short life cycle stocks, the FEPs must identify status determination criteria, maximum sustainable yield, optimum yield, and acceptable biological catch (ABC) with a related control rule.

ACLs and AMs would also not be required for species classified in a fishery management plan as "ecosystem component species," which this rule would define as "any western Pacific [management unit species] that the Council has identified to be, generally, a non-target species, not determined to be subject to overfishing, approaching overfished, or overfished, not likely to become subject to overfishing or overfished, and generally not retained for sale or personal use." Because ecosystem component species are not in danger of being overfished, management measures are not necessary for them, and NMFS would exempt these species from the ACLs and AMs. While this rule would establish the procedures for the Council to use to establish the ACLs and AMs, the actual ACLs and AMs will be specified through future action.

To comply with the Magnuson-Stevens Act and National Standard 1 guidelines, this proposed rule would implement a mechanism for the Council and NMFS to specify ACLs, possibly including multi-year ACLs, and AMs in western Pacific fisheries. Briefly, the mechanism requires the Council to recommend an ACL to NMFS at least two months before the start of a fishing year. The ACL recommendation may include a downward adjustment to account for the fishery exceeding the ACL in the previous year. The Council's recommendation should be based on the SSC's recommendation of the ABC for the subject species or fishery, and it may

not exceed the SSC's recommendation. At least one month before the fishing year starts, NMFS will announce the proposed ACL and request public comments. Before the start of the fishing year, NMFS will notify fishermen and the public of the final ACL specification.

NMFS monitors the fishery on an ongoing basis throughout the fishing year. When an ACL is projected to be reached during the year, NMFS will notify fishermen and the public that fishing for the regulated stock will be restricted through one or more inseason accountability measures to ensure that the ACL is not exceeded. Restrictions may include, but are not limited to, closing the fishery, closing specific areas, changing bag limits, or otherwise restricting effort or catch. Any inseason restriction will generally remain in effect until the end of the fishing year. If inseason monitoring or subsequent data analyses indicate that an ACL was exceeded in the previous fishing year, the Council may recommend that NMFS reduce the ACL for the subsequent year by the amount of the overage. In determining whether an overage adjustment is necessary, the Council would consider the magnitude of the overage and its impact on the affected stock's status. Additionally, if an ACL is exceeded more than once in a four-year period, the Council will re-evaluate the mechanism of ACLs and AMs, and adjust the system, as necessary, to improve its performance and effectiveness.

As described in the amendment, the Council's SSC would use a tier of control rules, based on the availability and quality of data about the stocks, to determine the appropriate ABC, which the Council would, in turn, use to identify appropriate ACLs and AMs. For example, if it has supporting data, the mechanism would allow the SSC to base ABC on a probability of overfishing that is less than 50 percent when biological reference points (*e.g.*, biomass, maximum sustainable yield, *etc.*) are directly available from statistical-based stock assessments. The amendment also includes a qualitative approach for determining the appropriate probability of overfishing. Other control rules would estimate fishing mortality for stocks where information is insufficient to use model-based assessment tools, and would set ABC as a reduced proportion of the maximum sustainable yield or recent harvests. Details of the tiers and control rules are found in the amendment [see **ADDRESSES**].

The Council and NMFS would use the mechanism implemented through this proposed rule to specify ACLs and AMs

starting in 2011, and would provide the public with opportunities to review and comment on the specific ACLs and AMs at the time they are specified.

To be considered, comments on this proposed rule must be received by May 16, 2011, not postmarked or otherwise transmitted by that date.

### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FEPs for American Samoa, Hawaii, the Marianas, PRIA, and western Pacific pelagic fisheries, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, as follows:

The Western Pacific Fishery Management Council proposes to amend its fishery ecosystem plans to establish a mechanism for specifying annual catch limits (ACL), and accountability measures (AM) to prevent an ACL from being exceeded, and correct or mitigate any overages of ACLs. The proposed rule would codify the ACL and AM mechanism, including the procedures for, and timing of, specifications, and exceptions to ACL and AM requirements. The proposed rule does not specify any ACL or AM for western Pacific fisheries. Rather, the rule is purely administrative in nature, and only applies to NMFS' and the Council's internal procedures to determine appropriate ACLs and AMs. If adopted, the rule would not add, remove or modify any existing rights or obligations of any parties, including business entities of any size. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule.

The proposed rule does not duplicate, overlap, or conflict with other Federal rules and is not expected to have any impact on small entities, organizations or government jurisdictions as the action is primarily administrative in nature and would only establish a mechanism for specifying ACLs and AMs for Federal fisheries.

NMFS will begin specifying ACLs and AMs for each fishery that requires them using the proposed notice-and-comment mechanism starting in fishing year 2011. When fishery-specific ACLs and AMs are proposed through subsequent rulemaking, NMFS will assess each proposed specification for compliance with all applicable laws, including any relevant impacts on small businesses, organizations and small government jurisdictions, and will prepare an initial regulatory flexibility analysis for that action, if warranted.

For these reasons, an initial regulatory flexibility analysis is not required and none has been prepared.

### List of Subjects in 50 CFR Part 665

Annual catch limits, Accountability measures, Fisheries, Fishing, Western and central Pacific.

Dated: March 28, 2011.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 665 is proposed to be amended as follows:

### PART 665—FISHERIES IN THE WESTERN PACIFIC

1. The authority for part 665 continues to read as follows:

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

2. In part 665, add a new § 665.4 to read as follows:

#### § 665.4 Annual catch limits.

(a) *General.* For each fishing year, the Regional Administrator shall specify an annual catch limit, including any overage adjustments, for each stock or stock complex of management unit species defined in subparts B through F of this part, as recommended by the Council, and considering the best available scientific, commercial, and other information about the fishery for that stock or stock complex. The annual catch limit shall serve as the basis for invoking accountability measures in paragraph (f) of this section.

(b) *Overage adjustments.* If landings of a stock or stock complex exceed the specified annual catch limit in a fishing year, the Council will take action in accordance with 50 CFR 600.310(g), which may include recommending that the Regional Administrator reduce the annual catch limit for the subsequent year by the amount of the overage or other measures, as appropriate.

(c) *Exceptions.* The Regional Administrator is not required to specify an annual catch limit for a management

unit species that is statutorily excepted from the requirement pursuant to 50 CFR 600.310(h)(2), or that the Council has identified as an ecosystem component species. The Regional Administrator will publish in the **Federal Register** the list of ecosystem component species, and will publish any changes to the list, as necessary.

(d) *Annual catch target.* For each fishing year, the Regional Administrator may also specify an annual catch target that is below the annual catch limit of a stock or stock complex, as recommended by the Council. When used, the annual catch target shall serve as the basis for invoking accountability measures in paragraph (f) of this section.

(e) *Procedures and timing.* (1) No later than 60 days before the start of a fishing year, the Council shall recommend to the Regional Administrator an annual catch limit, including any overage adjustment, for each stock or stock complex. The recommended limit should be based on a recommendation of the SSC of the acceptable biological catch for each stock or stock complex. The Council may not recommend an annual catch limit that exceeds the acceptable biological catch recommended by the SSC. The Council may also recommend an annual catch target below the annual catch limit.

(2) No later than 30 days before the start of a fishing year, the Regional Administrator shall publish in the **Federal Register** a notice of the proposed annual catch limit specification and any associated annual catch target, and request public comment.

(3) No later than the start of a fishing year, the Regional Administrator shall publish in the **Federal Register** and use other methods to notify permit holders of the final annual catch limit specification and any associated annual catch target.

(f) *Accountability measures.* When any annual catch limit or annual catch target is projected to be reached, based on available information, the Regional Administrator shall publish notification to that effect in the **Federal Register** and shall use other means to notify permit holders.

(1) The notice will include an advisement that fishing for that stock or stock complex will be restricted beginning on a specified date, which shall not be earlier than 7 days after the date of filing the notice for public inspection at the Office of the **Federal Register**. The restriction may include, but is not limited to, closure of the fishery, closure of specific areas, changes to bag limits, or restrictions in effort. The restriction will remain in

effect until the end of the fishing year, except that the Regional Administrator may, based on a recommendation from the Council, remove or modify the restriction before the end of the fishing year.

(2) It is unlawful for any person to conduct fishing in violation of the restrictions specified in the notification issued pursuant to paragraph (f)(1) of this section.

3. In § 665.12 add the definitions of “Ecosystem component species” and “SSC” in alphabetical order to read as follows:

**§ 665.12 Definitions.**

\* \* \* \* \*

*Ecosystem component species* means any western Pacific MUS that the Council has identified to be, generally, a non-target species, not determined to be subject to overfishing, approaching overfished, or overfished, not likely to become subject to overfishing or overfished, and generally not retained for sale or personal use.

\* \* \* \* \*

*SSC* means the Scientific and Statistical Committee of the Western Pacific Fishery Management Council.

\* \* \* \* \*

4. In § 665.15 add a new paragraph (u) to read as follows:

**§ 665.15 Prohibitions.**

\* \* \* \* \*

(u) Fail to comply with the restrictions specified in the notification issued pursuant to § 665.4(f)(1), in violation of § 665.15(f)(2).

[FR Doc. 2011-7622 Filed 3-30-11; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 665**

[Docket No. 0808051054-91123-01]

RIN 0648-AW67

**Western Pacific Pelagic Fisheries; Prohibiting Purse Seine Fishing in the U.S. EEZ Around Guam and the Northern Mariana Islands, and Prohibiting Longline Fishing Within 30 nm of the Northern Mariana Islands**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** Through this action, NMFS proposes to prohibit purse seine fishing in the U.S. Exclusive Economic Zone (EEZ) around Guam and the Commonwealth of the Northern Mariana Islands (CNMI), and to prohibit pelagic longline fishing within 30 nautical miles (nm) of the CNMI. The purse seine prohibition is intended to reduce the potential for localized fish depletion by purse seine fishing, limit catch competition and gear conflicts between the purse seine fishery and the Guam and CNMI pelagic longline and trolling fleets, and reduce the potential impacts of purse seine fishing on the recruitment of juvenile bigeye tuna. By establishing a longline fishing prohibited area around the CNMI, NMFS intends to reduce the potential for localized fish depletion by longline fishing, and to limit catch competition and gear conflicts between the developing CNMI longline fishery and the CNMI pelagic trolling fleet. This rule also would make several administrative clarifications to the pelagic fishing regulations.

**DATES:** NMFS must receive comments on the proposed rule by May 16, 2011.

**ADDRESSES:** The Western Pacific Fishery Management Council (Council) prepared Amendment 2 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (FEP), which describes the issues, and includes an environmental assessment (EA). Copies of Amendment 2 and EA are available from <http://www.regulations.gov> or the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, <http://www.wpcouncil.org>.

You may send a comment on this proposed rule, identified by 0648-AW67, to either of the following addresses:

- *Electronic Submission:* Send electronic public comments via the Federal e-Rulemaking Portal <http://www.regulations.gov>; or
- *Mail:* Mail written comments to Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700.

*Instructions:* You must send comments to one of the above two addresses to ensure that NMFS receives, documents, and considers all comments. Comments sent to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.) submitted

voluntarily by the sender may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Toby Wood, NMFS PIR Sustainable Fisheries, 808-944-2234.

**SUPPLEMENTARY INFORMATION:** Pelagic fisheries in the U.S. western Pacific are managed under the Pelagics FEP. The Council is concerned that any influx of purse seine fishing near the islands of Guam and the CNMI might affect the sustained participation by local fishing communities in those areas, which are made up almost exclusively of small vessel trollers that have a strong cultural and economic dependence on inshore pelagic catches. Similarly, the Council is also concerned that the CNMI troll fishery is vulnerable to potential catch competition and gear conflicts with the growing CNMI longline fleet in areas where both fleets fish.

In response to these concerns, and pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Council prepared Amendment 2 to the Pelagic FEP in the Mariana Archipelago. In Amendment 2, the Council proposes to prohibit purse seine fishing in the EEZ around Guam and the CNMI, and to prohibit pelagic longline fishing within 30 nm (55.6 km) of the CNMI. If Amendment 2 is adopted, this rule would implement the Council’s recommendations.

**Fisheries**

The following section describes the fisheries that would be affected by this rule, if it is promulgated. Because 2008 is the most recent year for which we have comprehensive information about all fisheries considered, we use 2008 as the baseline year for analyzing the potential effects of this proposed rule. Although more recent troll, longline, and purse seine fishery information has become available, including this information would not change the analysis, management objectives, or measures of the Council’s proposed action.

Pelagic fisheries in the Mariana Islands (Guam and the CNMI) consist of small trolling fleets and several pelagic longline vessels. Purse seine vessels have been based in Guam, but have not