November 1, 2011, about 10,785 (97%) of 11,127 commercial radio stations have revenue of $7 million or less and thus qualify as small entities under the SBA definition. Therefore, the majority of such entities are small entities. We note, however, that in assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included. Many radio stations are affiliated with much larger corporations having much higher revenue. Our estimate, therefore, likely overstates the number of small entities that might be affected by any ultimate changes to the rules and forms.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

In the *Second IBOC Order,* the Commission declined to establish a deadline for radio stations to convert to digital broadcasting, 22 FCC Rcd at 10351. Presently, radio stations may choose to commence IBOC digital operation pursuant to § 73.404 of the Commission's rules, 47 CFR 73.404, which requires that licensees provide notification to the Commission within 10 days of commencing IBOC digital operation. The January 29, 2010, *Order* allows eligible authorized FM stations to commence operation of FM digital facilities with digital effective radiated power (ERP) up to −14 dBc upon notice to the Commission on FCC Form 335–FM—Digital Notification. In addition, licensees must electronically notify the Media Bureau of any power increase in their FM digital ERP within 10 days of commencement using the same Form 335—Digital Notification. However, use of the Form 335–FM for notification of commencement of FM hybrid digital operation, or notification of modification of FM digital operation, is currently limited to non-super-powered FM stations with digital ERP not exceeding −14 dBc and super-powered stations with digital ERP not exceeding −20 dBc.

Non-super-powered FM stations requesting authorization to operate with digital ERP between −14 dBc and −10 dBc, or super-powered FM stations requesting digital ERP in excess of −20 dBc are required to file an informal request using the Engineering STA Form prior to commencement of the increased power FM digital operation. Licensees submitting such a request must use the simplified method set forth in the January 29, 2010, *Order* to determine the station's maximum permissible FM digital ERP. In situations where the simplified method is not applicable due to unusual terrain or other technical considerations, the Bureau will accept applications for FM digital ERP in excess of −14 dBc on a case-by-case basis, when accompanied by a showing detailing the prediction methodology, data, maps and sample calculations.

The proposed rule changes may, in some cases, impose different reporting or recordkeeping requirements on FM radio stations, insofar as they would allow certain licensees to voluntarily operate with asymmetric digital sideband power. However, the information that would be reported is already familiar to broadcasters, and is similar to the current IBOC digital operation notification or authorization reporting requirements, so any additional burdens would be minimal. The Public Notice tentatively concludes that it would be expedient to modify Form 335–FM, currently used for Digital Notifications, to accommodate requests for increased digital power and/or operation with asymmetric digital sideband power.

E. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities (5 U.S.C. 603(b)).

Operation of hybrid digital facilities by Commission licensees and permittees is voluntary. Likewise, use of asymmetric FM digital sideband powers would be limited to those licensees and permittees expressly seeking authorization for such operation. The proposal to permit use of asymmetric FM digital sideband powers thus would not impose any additional burden on FM broadcasters. In fact, for those FM broadcasters that choose to operate hybrid FM facilities, the proposal would confer a benefit. Currently, a significant number of FM stations are precluded from operating maximum permissible hybrid FM digital facilities. This occurs in the case of an FM station operating hybrid digital facilities that has a nearby FM station on one, but not both, of its two first-adjacent channels, thus limiting allowable digital power in both sidebands to a level that protects the sole limiting station. By permitting asymmetric FM digital sideband operation, such a station could increase to maximum permissible digital power on the sideband opposite the limiting FM station, thus achieving improved digital facilities and signal coverage. Because operation under the proposed rule is voluntary, and would only be undertaken by licensees and permittees that would realize a benefit from such operation, consideration of alternatives was not required.

F. Federal Rules Which Duplicate, Overlap, or Conflict With the Commission's Proposals

None.

Federal Communications Commission.

Kris A. Monteith,

Deputy Chief, Media Bureau.

[FR Doc. 2011–30598 Filed 11–25–11; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2011–0160]

Federal Motor Vehicle Safety Standards; Small Business Impacts of Motor Vehicle Safety

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

ACTION: Notice of regulatory review; Request for comments.

SUMMARY: NHTSA seeks comments on the economic impact of its regulations on small entities. As required by Section 610 of the Regulatory Flexibility Act, we are attempting to identify rules that may have a significant economic impact on a substantial number of small entities. We also request comments on ways to make these regulations easier to read and understand. The focus of this notice is rules that specifically relate to school buses and other buses.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than January 27, 2012.

ADDRESSES: You may submit comments [identified by DOT Docket ID Number NHTSA–2011–0160] by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

• *Fax:* (202) 493–2251.

Instructions: For detailed instructions on submitting comments and additional information see the Comments 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. Please see the Privacy Act heading below.

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://DocketsInfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Juanita Kavalauskas, Office of Regulatory Analysis, Office of Regulatory Analysis and Evaluation, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone (202) 366–2584, fax (202) 366–3189).

SUPPLEMENTARY INFORMATION:

I. Section 610 of the Regulatory Flexibility Act

A. Background and Purpose

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires agencies to conduct periodic reviews of final rules that have a significant economic impact on a substantial number of small business entities. The purpose of the reviews is to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities.

B. Review Schedule

The Department of Transportation (DOT) published its Semiannual Regulatory Agenda on November 22, 1999, listing in Appendix D (64 FR 64684) those regulations that each operating administration will review under section 610 during the next 12 months. Appendix D contained DOT's 10-year review plan for all of its existing regulations. On November 24, 2008, NHTSA published in the **Federal Register** (73 FR 71401) a revised 10-year review plan for its existing regulations.

The National Highway Traffic Safety Administration (NHTSA, ''we'') has divided its rules into 10 groups by subject area. Each group will be reviewed once every 10 years, undergoing a two-stage process—an Analysis Year and a Review Year. For purposes of these reviews, a year will coincide with the fall-to-fall publication schedule of the Semiannual Regulatory Agenda. The newly revised 10-year plan will assess years 9 and 10 of the old plan in years 1 and 2 of the new plan. Year 1 (2008) began in the fall of 2008 and will end in the fall of 2009; Year 2 (2009) will begin in the fall of 2009 and will end in the fall of 2010; and so on.

During the Analysis Year, we will request public comment on and analyze each of the rules in a given year's group to determine whether any rule has a significant impact on a substantial number of small entities and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. In each fall's Regulatory Agenda, we will publish the results of the analyses we completed during the previous year. For rules that have subparts, or other discrete sections of rules that do have a significant impact on a substantial number of small entities, we will announce that we will be conducting a formal section 610 review during the following 12 months.

The section 610 review will determine whether a specific rule should be revised or revoked to lessen its impact on small entities. We will consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. At the end of the Review Year, we will publish the results of our review. The following table shows the 10-year analysis and review schedule:

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION SECTION 610 REVIEWS

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR 571.223 through 571.500, and parts 575 and 579	2008	2009
2	23 CFR parts 1200 and 1300	2009	2010
3	49 CFR parts 501 through 526 and 571.213	2010	2011
4	49 CFR 571.131, 571.217, 571.220, 571.221, and 571.222	2011	2012
5	49 CFR 571.101 through 571.110, and 571.135, 571.138 and 571.139	2012	2013
6	49 CFR parts 529 through 578, except parts 571 and 575	2013	2014
7	49 CFR 571.111 through 571.129 and parts 580 through 588	2014	2015
8	49 CFR 571.201 through 571.212	2015	2016
9	49 CFR 571.214 through 571.219, except 571.217	2016	2017
10	49 CFR parts 591 through 595 and new parts and subparts	2017	2018

C. Regulations Under Analysis

During Year 4, we will continue to conduct a preliminary assessment of the following: 49 CFR 571.131, 571.217, 571.220, 571.221, and 571.222.

Section	Title
571.131	School bus pedestrian safety devices.
571.217	Bus emergency exits and window retention and release.
571.220	School bus rollover protection.
571.221	School bus body joint strength.
571.222	School bus passenger seating and crash protection.

We are seeking comments on whether any requirements in 49 CFR 571.131, 571.217, 571.220, 571.221, and 571.222 have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. Business entities are generally defined as small businesses by Standard Industrial Classification (SIC) code, for the purposes of receiving Small Business Administration (SBA) assistance. Size standards established by SBA in 13 CFR 121.201 are expressed either in number of employees or annual receipts in millions of dollars, unless otherwise specified. The number of employees or annual receipts indicates the maximum allowed for a concern and its affiliates to be considered small. If your business or organization is a small entity and if any of the requirements in 49 CFR 571.131, 571.217, 571.220, 571.221, and 571.222 have a significant economic impact on your business or organization, please submit a comment to explain how and to what degree these rules affect you, the extent of the economic impact on your business or organization, and why you believe the economic impact is significant.

If the agency determines that there is a significant economic impact on a substantial number of small entities, it will ask for comment in a subsequent notice during the Review Year on how these impacts could be reduced without reducing safety.

II. Plain Language

A. Background and Purpose

Executive Order 12866 and the President's memorandum of June 1, 1998, require 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 is not 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 document.

B. Review Schedule

In conjunction with our section 610 reviews, we will be performing plain language reviews over a ten-year period on a schedule consistent with the section 610 review schedule. We will review 49 CFR 571.131, 571.217, 571.220, 571.221, and 571.222 to determine if these regulations can be reorganized and/or rewritten to make them easier to read, understand, and use. We encourage interested persons to submit draft regulatory language that clearly and simply communicates regulatory requirements, and other recommendations, such as for putting information in tables that may make the regulations easier to use.

Comments

How do I prepare and submit 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 of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21.) We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

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.* DOT's guidelines may be accessed at *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf.*

How can I be sure that my comments were received?

If you 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, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Federal Docket Management System (FDMS) at *http://regulations.gov.*

(2) FDMS provides two basic methods of searching to retrieve dockets and docket materials that are available in the system: (a) ''Quick Search'' to search using a full-text search engine, or (b) ''Advanced Search,'' which displays various indexed fields such as the docket name, docket identification number, phase of the action, initiating office, date of issuance, document title, document identification number, type of document, **Federal Register** reference, CFR citation, etc. Each data field in the advanced search may be searched independently or in combination with other fields, as desired. Each search yields a simultaneous display of all available information found in FDMS that is relevant to the requested subject or topic.

(3) You may download the comments. However, since the comments are

imaged documents, instead of word processing documents, the ''pdf'' versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Terry Shelton,

Associate Administrator for the National Center for Statistics and Analysis.

[FR Doc. 2011–30277 Filed 11–25–11; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 111025652–1657–01]

RIN 0648–XA798

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List the Scalloped Hammerhead Shark as Threatened or Endangered Under the Endangered Species Act

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

ACTION: 90-day petition finding, request for information, and initiation of status review.

SUMMARY: We, NMFS, announce a 90-day finding on a petition to list the scalloped hammerhead shark (*Sphyrna lewini*) or, in the alternative, multiple distinct population segments (DPSs) of the scalloped hammerhead shark as threatened or endangered under the Endangered Species Act (ESA), and to designate critical habitat concurrently with the listing. We find that the petition and information in our files present substantial scientific or commercial information indicating that the petitioned action may be warranted. We will conduct a status review of the species to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information pertaining to this species from any interested party.

DATES: Information and comments on the subject action must be received by January 27, 2012.

ADDRESSES: You may submit comments, information, or data, identified by ''NOAA–NMFS–2011–0261'' by any one of the following methods:

- *Electronic Submissions:* Submit all electronic comments via the Federal eRulemaking Portal *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter ''NOAA–NMFS–2011–0261'' in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Mail or hand-delivery:* Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: All comments received are a part of the public record and may be posted to *http://www.regulations.gov* without change. All personally identifiable information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, Corel WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Maggie Miller, NMFS, Office of Protected Resources, (301) 427–8403.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 2011, we received a petition from WildEarth Guardians and Friends of Animals to list the scalloped hammerhead shark (*Sphyrna lewini*) as threatened or endangered under the ESA throughout its entire range, or, as an alternative, to delineate the species into five DPSs (Eastern Central and Southeast Pacific, Eastern Central Atlantic, Northwest and Western Central Atlantic, Southwest Atlantic, and Western Indian Ocean) and list any or all of these DPSs as threatened or endangered. The petitioners also requested that critical habitat be designated for the scalloped hammerhead under the ESA. Copies of the petition are available upon request (see **ADDRESSES,** above).

ESA Statutory, Regulatory, and Policy Provisions and Evaluation Framework

Section 4(b)(3)(A) of the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish such finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When it is found that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a ''positive 90-day finding''), we are required to promptly commence a review of the status of the species concerned during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, we conclude the review with a finding as to whether, in fact, the petitioned action is warranted within 12 months of receipt of the petition. Because the finding at the 12-month stage is based on a more thorough review of the available information, as compared to the narrow scope of review at the 90-day stage, a ''may be warranted'' finding does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a species, which is defined to also include subspecies and, for any vertebrate species, any DPS that interbreeds when mature (16 U.S.C. 1532(16)). A joint NMFS–U.S. Fish and Wildlife Service (USFWS) (jointly, ''the Services'') policy clarifies the agencies' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (61 FR 4722; February 7, 1996). A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively, 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether species are threatened or endangered based on any one or a combination of the following five section 4(a)(1) factors: (1) The present or threatened destruction, modification, or curtailment of habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; and (5) any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(b)) define ''substantial information'' in the context of reviewing