factor be rounded up to the nearest tenth of a percent, and that rounding be accounted for when calculating circularity, accommodates concerns expressed by AT&T and others that billing system limitations, when coupled with the recovery limitations in § 54.712 of our rules, may inhibit some carriers' ability to recover a portion of their contribution costs through their federal universal service line-item charges. This action also will prevent carriers from recovering amounts in excess of contribution obligations. We therefore conclude that each quarter the Bureau shall announce a contribution factor rounded up to the nearest tenth of a percent.

III. Regulatory Flexibility Act Certification

23. The Regulatory Flexibility Act of 1980, as amended (RFA), *see generally* 5 U.S.C. 601–612, requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). As required by the RFA, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *First Further Notice,* 67 FR 11254, March 13, 2002. The Commission sought written public comment on the proposals in the *First Further Notice,* including comment on the IRFA. In the *Interim Contribution Methodology Order,* the Commission included a Final Regulatory Flexibility Analysis (FRFA) that conformed to the RFA.

24. In the *Second Order on Reconsideration,* we eliminate § 54.712(b) of the Commission's rules, in order to permit eligible telecommunications carriers (ETCs) to recover from Lifeline customers contribution costs associated with the provision of interstate telecommunications services, such as occasional interstate charges and interstate long distance charges, that are not supported by the Commission's universal service mechanisms. By eliminating this restriction on cost recovery, the *Second Order on Reconsideration* will have a beneficial, deregulatory impact on all ETCs with such customers, including small entity ETCs. We also note that this action will have no impact on the universal service contribution obligations of ETCs and should only minimally impact their contribution recovery practices. We therefore conclude that a FRFA is not required here because the *Second Order on Reconsideration* will have no significant economic impact on a substantial number of small entities.

IV. Ordering Clauses

25. Pursuant to sections 1–4, 201–202, 254, and 405 of the Communications Act of 1934, as amended, and § 1.108 of the Commission's rules, this Order and Second Order on Reconsideration *is adopted.*

26. Pursuant to sections 1, 4(i), 254 and 405 of the Communications Act of 1934, as amended, and §§ 1.3, 1.429 of the Commission's rules, that the Verizon Telephone Companies, SBC Communications Inc., and BellSouth Corporation Joint Petition for Interim Waiver and the National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies Joint Petition for Interim Waiver are granted to the extent indicated herein.

27. Pursuant to section 405 of the Communications Act of 1934, as amended, and § 1.429 of the Commission's rules, the petitions for reconsideration filed by the United States Telecommunications Association and SBC Communications Inc. *are granted* to the extent indicated herein.

28. Pursuant to section 405 of the Communications Act of 1934, as amended, and § 1.429 of the Commission's rules, the petition for reconsideration filed by the National Exchange Carrier Association, Inc. *is denied.*

29. Pursuant to section 405 of the Communications Act of 1934, as amended, and § 1.429 of the Commission's rules, the petition for reconsideration filed by WorldCom, Inc. *is granted.*

30. Pursuant to section 405 of the Communications Act of 1934, as amended, and § 1.429 of the Commission's rules, the petition for reconsideration filed by the Verizon Wireless *is granted,* in part, and denied, in part, to the extent indicated herein.

31. Pursuant to section 405 of the Communications Act of 1934, as amended, and § 1.429 of the Commission's rules, the petition for reconsideration filed by AT&T Corp. *is granted* to the extent indicated herein.

32. Section 54.712 of the Commission's rules, is amended as set forth, effective April 1, 2003.

List of Subjects 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

Subpart H—Administration

■ 1. The authority citation for part 54 continues to read as follows:

Authority :47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

§ 54.712 [Amended]

■ 2. In § 54.712, remove and reserve paragraph (b).

[FR Doc. 03–7702 Filed 3–31–03; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 665

[FTA Docket No. 98–B]

RIN 2132–AA30

Bus Testing

AGENCY: Federal Transit Administration, DOT.

ACTION: Final rule.

SUMMARY: The Federal Transit Administration is adopting, as a final rule, without change, the current interim final rule that sets forth regulations governing the testing of vehicles used in mass transportation service.

EFFECTIVE DATE: June 2, 2003.

FOR FURTHER INFORMATION CONTACT: For technical questions, contact Marcel Belanger, Office of Research and Innovation, Federal Transit Administration, (202) 366–0725. For legal issues, contact Richard L. Wong, Office of the Chief Counsel, Federal Transit Administration, (202) 366–4011.

SUPPLEMENTARY INFORMATION:

Background

The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) required FTA to establish a facility for the testing of buses, and prohibited the expenditure of FTA funds for any new bus model that had not first been tested at that facility.

FTA's initial Notice of Proposed Rulemaking (NPRM), published on May 25, 1989, was expansive, proposing that all new vehicles used in mass transportation service after September 30, 1989, (the effective date in STURAA) would be subject to testing. Due to numerous comments from the industry, FTA issued its first interim final rule on August 23, 1989, limiting testing to large buses, noting that the categories of vehicles subject to testing would be expanded over time. Subsequent interim final rules adding these remaining categories of vehicles were published on October 6, 1990, and July 28, 1992. Because of additional industry concerns, however, the effective dates in the July 28, 1992, interim final rule were further postponed, finally taking effect on February 10, 1993. FTA's fourth interim final rule, issued on November 3, 1993, set forth the final four subcategories of small vehicles subject to testing, and established guidelines for the partial testing of bus models that had been fully tested but later are produced with changes in configuration or components.

During the rulemaking process, FTA has had numerous meetings with bus manufacturing representatives that were widely publicized throughout the industry and interested persons were invited to attend the meetings and participate in the deliberations. Most recently, FTA and the Pennsylvania Transportation Institute (PTI) conducted a Bus Testing Program Workshop at PTI's facilities in State College, Pennsylvania, from January 28–29, 2002, in which all entities, both vehicle manufacturers and purchasers, were invited to express their views on the subject.

We note that at that workshop, as well as at Bus Rapid Transit (BRT) conferences in Los Angeles in April 2002 and at State College in June 2002, the issue of testing BRT vehicles was discussed. We believe that the current regulation, including the provisions which allow a waiver for demonstration vehicles and partial testing procedures, are adequate to address vehicles intended for use on BRT systems. FTA, however, is willing to entertain petitions for further rulemaking by interested parties.

Administratively, FTA has been pursuing non-regulatory efforts to reduce the testing burden on purchasers and manufacturers, such as implementing the partial testing procedures in the regulation to streamline test procedures and eliminate unnecessary and redundant tests. In addition, FTA is reviewing the possibility of progress payments, which would affect the funding eligibility of buses undergoing testing at PTI.

After consideration of all relevant material, including the discussions at the workshop and conferences, FTA has determined that accepting the existing regulation as FTA's final rule, without change, as published in the **Federal Register** (58 FR 58732 November 3, 1993) will effectuate the declared intent of STURAA.

Regulatory Analyses and Notices

FTA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, as the economic affect of this rulemaking will not exceed $100 million or more, it will not adversely affect, in a material way, any sector of the economy, nor will it interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. However, it was listed as significant within the meaning of U.S. Department of Transportation's regulatory policies and procedures due to Congressional interest in the implementation of the program.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FTA has evaluated the effects of this action on small entities and has determined that the action will not have a significant economic impact on a substantial number of small entities, as FTA now pays 80 percent of the testing fee (57 FR 8954, March 13, 1992), and allows the partial testing of certain vehicles (57 FR 33394, July 28, 1992). For these reasons, FTA believes that it has minimized the effects of this rule so that it will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule is consistent with the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48), as it will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). This final rule reflects participation by state and local governments, and FTA believes it is the least costly and most effective way of implementing the statutory mandate.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996, as it will not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and FTA has determined that this action does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. FTA believes that this action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. OMB has approved the paperwork requirements of this rule (OMB No. 2132–0550), and this action will not impose any additional paperwork burden.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Regulation Identification Number

A regulation identification number (RIN) is assigned 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. The RIN contained in the heading of this document can be

used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 665

Vehicle testing. Grant programs—transportation. Mass Transportation.

■ Accordingly, the interim rule amending 49 CFR part 665 which was published at 58 FR 58732, November 3, 1993, is adopted as a final without change.

Issued on: March 24, 2003.

Jennifer L. Dorn,

Administrator.

[FR Doc. 03–7549 Filed 3–31–03; 8:45 am]

BILLING CODE 4910–17–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 000303059–3034–03; I.D. No. 021700B]

RIN No. 0648–XA49

Endangered and Threatened Species; Final Endangered Status for a Distinct Population Segment of Smalltooth Sawfish (*Pristis pectinata*) in the United States

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

ACTION: Final rule; technical amendment

SUMMARY: NMFS published a proposed rule to list the U.S. population of smalltooth sawfish as endangered on April 16, 2001. After considering public comments on the proposed rule, NMFS is issuing a final rule to list the distinct population segment (DPS) of smalltooth sawfish in the United States as an endangered species. NMFS has determined that the U.S. DPS is in danger of extinction throughout its range.

NMFS is also making a technical amendment to the list of endangered marine and anadromous species to reinsert the listing of Atlantic salmon.

DATES: Effective May 1, 2003.

ADDRESSES: The complete administrative record for this regulation is available at NMFS, Southeast Regional Office, Protected Resources Division, 9721 Executive Center Drive North, St. Petersburg, FL 33702. The status review and proposed rule are also available electronically at the NMFS Web site at *http://www.nmfs.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Shelley Norton, NMFS, at the address above,727–570–5312, or David O'Brien, NMFS, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

NMFS designated the smalltooth sawfish as a candidate species under the Endangered Species Act (ESA) on June 23, 1999 (64 FR 33467). On November 30, 1999, NMFS received a petition from the Center for Marine Conservation (now The Ocean Conservancy) requesting that NMFS list the North American populations of smalltooth sawfish and largetooth sawfish as endangered under the ESA. The petitioner's request was based on four criteria: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) the inadequacy of existing regulatory mechanisms; and (4) other natural or manmade factors affecting its continued existence. On March 10, 2000, NMFS published its determination that the petition presented substantial information indicating that listing may be warranted for smalltooth sawfish, but not for largetooth sawfish. Concurrently, NMFS announced the initiation of a smalltooth sawfish formal status review (65 FR 12959, March 10, 2000).

In order to conduct a comprehensive review of smalltooth sawfish, NMFS created a status review team to investigate the status of the species with regard to the listing criteria provided by the ESA. In addition to its own resources and data, the status review team gathered all known records and data of smalltooth sawfish by contacting fishery managers, museums and other research collectors. The status review contains the best scientific and commercial information available on smalltooth sawfish at the time of the report. The document addresses the status of the species, the five listing determination criteria, and the effect of efforts underway to protect the species.

The Smalltooth Sawfish Status Review was completed in December 2000 and has undergone peer review. The findings of the Status Review have been accepted by NMFS and some of the findings are summarized here. The Status Review contains a more complete discussion and complete literature citations for the information summarized in this final rule. The Status Review is available at on the NMFS Web site (see **ADDRESSES**).

NMFS published the proposed rule to list the smalltooth sawfish on April 16, 2001 (66 FR 19414). Comments received on the proposed rule are discussed below.

In addition to this final rule to list the U.S. population of smalltooth sawfish as endangered, NMFS is also making a technical amendment to the list of endangered species (50 CFR 224.101) to reinsert the listing for Atlantic salmon, which was inadvertently deleted from the list.

Summary of Comments Received on the Proposed Rule

During the 60–day public comment period, NMFS received a total of 12 written comments: four from private citizens, seven from non-governmental organizations, and one from a local non-profit research laboratory. All commenters supported the proposed rule. Three of the commenters also requested that critical habitat be designated for the smalltooth sawfish. Several commenters requested that NMFS develop a recovery plan or program for the species. One commenter also requested the listing of the largetooth sawfish. A brief summary of the comments received on the proposed rule is presented below, along with NMFS' response to each comment.

Comment 1: Three commenters stated that critical habitat designation is necessary for the smalltooth sawfish and urged NMFS to designate critical habitat.

Response: Section 4(a)(3)(A) of the ESA requires that critical habitat be designated concurrently with a determination that a species is endangered or threatened, to the maximum extent prudent and determinable. When such a designation is not determinable at the time of final listing of a species, section 4(b)(6)(C)(ii) of the ESA, 16 U.S.C. 1533(b)(6)(C)(ii), provides for additional time to promulgate a critical habitat designation. NMFS has determined that designation of critical habitat for the sawfish is not determinable at this time.

NMFS has and continues to fund research that is necessary to identify the biological and physical habitat features that are essential to the conservation of the species. While more information is required before critical habitat can be designated, the available data suggest that shallow water, 1 meter or less, may be important nursery areas for the smalltooth sawfish; that river and creek mouths are important habitat elements; and that channels through shallow habitats may be important mating aggregation areas. During the next year NMFS will be gathering and reviewing the current and ongoing studies on the habitat use and requirements of