

higher class channel in response to a petition filed by Turtle Broadcasting Co. of Branson. See 56 FR 65206, December 16, 1991. In accordance with Section 1.420(g) of the Commission's Rules we shall modify the construction permit for Station KRZK(FM) to specify operation on Channel 292C2. The coordinates for Channel 292C2 are 36-43-00 and 93-05-00. To accommodate the upgrade at Branson, we substituted Channel 221A for Channel 222A at Ava, Missouri, at coordinates 36-55-48 and 92-39-19 and modified the license for Station KKOZ-FM and substituted Channel 223A for Channel 293A at Mountain Grove, Missouri, at coordinates 37-08-07 and 92-14-59 and modified the license for Station KCMG-FM. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 12, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 91-352, adopted November 3, 1995, and released November 28, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 222A and adding Channel 221A at Ava, by removing Channel 292C3 and adding Channel 292C2 at Branson, and by removing Channel 293A and adding Channel 223A at Mountain Grove.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 553

RIN 2127-AG04

Rulemaking Procedures; Petitions for Reconsideration; Petitions for Extension of Comment Period

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

ACTION: Final Rule.

SUMMARY: This rule makes two amendments to NHTSA's procedural rules. The first amendment requires petitions for extension of the period for submitting written comments on a notice such as a notice of proposed rulemaking to be submitted at least 15 days before the closing date for the comment period. Previously, petitions could be submitted up to 10 days before the closing date. This change will give NHTSA additional time to process these petitions and thus ensure that, when a petition is granted, the notice extending the comment period can be published well before the original closing date.

The second amendment provides that the agency will accept petitions for reconsideration of a final rule if they are received not more than 45 days after the publication of the final rule. Previously, petitions for reconsideration had to be received not more than 30 days following publication of a final rule. NHTSA believes that the extension is warranted by the complexity of many of its final rules. The additional time will allow interested parties to review the rules more effectively and better prepare their petitions for reconsideration.

DATES: The amendments made in this rule are effective January 4, 1996.

FOR FURTHER INFORMATION CONTACT: Mary L. Versailles, Office of the Chief Counsel, NCC-20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366-2992.

SUPPLEMENTARY INFORMATION: This notice makes two amendments to Part 553, Rulemaking Procedures, Title 49 of the Code of Federal Regulations (CFR). Part 553 prescribes rulemaking procedures that apply to the issuing, amending, and revoking of motor vehicle safety, damageability, domestic content labeling, fuel economy, and theft rules pursuant to the authorizing legislation formerly known as the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings

Act. The amendments change the requirements concerning the deadlines for petitions for extension of comments period and for petitions for reconsideration.

Petitions for Extension of Comment Period

Section 553.19 specifies procedures for petitions for extension of the period for submitting written comments on a notice such as a notice of proposed rulemaking. For some time, the procedures prescribed that petitions for extension must be received by NHTSA not later than 10 days before the comment closing date stated in the notice.

In this final rule, NHTSA amends the procedures so that petitions for extension of the time period must be received by NHTSA not later than 15 days before the comment closing date. This amendment is necessary to provide NHTSA additional time to process such petitions. As stated in section 553.19, the filing of the petition does not automatically extend the time deadline for petitioner's comments. With the additional time, NHTSA will be able to more effectively consider and process the petitions.

The longer interval between the petition deadline and the comment closing date will make it easier for the agency to publish a Federal Register document informing the public of the extension well before the closing date. As has sometimes occurred under the previous 10-day deadline, the notice of extension of the comment period is published only a day or two before the initial scheduled closing date. The lateness of the publication reduces the value of the extension for many commenters. By two days before the initial comment closing date, most commenters will already have prepared comments. For these reasons, NHTSA amends the time period for accepting petitions for extension of time to comment on rulemakings.

Petitions for Reconsideration

Section 553.35 establishes procedures for petitions of reconsideration of a final rule. The procedures require that petitions for extension must be received by NHTSA not later than 30 days after publication of the rule in the Federal Register. Petitions received after that deadline are treated as petitions for rulemaking.

In this final rule, NHTSA amends the procedures to provide 45 days for the receipt of petitions for reconsideration. NHTSA believes that, by providing the public additional time to review final rules, particularly complicated ones, the

amendment will enable them to identify potential issues more thoroughly and thus petition for reconsideration more effectively.

Effective Date

The amendments made in this final rule are effective 30 days after publication in the Federal Register. If there is a document with an open comment period on that date of publication, and there are 15 or more days remaining in the comment period, the deadline for filing a petition for extending the comment period is the 15th day before the end of that comment period. If there are less than 15 days remaining, the deadline for such a petition is the 10th day before the end of the comment period. For any final rule published less than 30 days before date of publication, the deadline for submitting petitions for reconsideration will be extended 15 days.

Other Amendments

The agency is republishing the entirety of Part 553 to consolidate the authority citations in one area. No other substantive amendments have been made to Part 553.

NHTSA is not soliciting public comment on this amendment to part 553, since it is a rule of agency procedure, and an opportunity for public comment is therefore not required under the Administrative Procedure Act.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures. This final rule merely makes a procedural change, by amending the deadlines by which a petition for extension of comment period and a petition for reconsideration must be received by NHTSA. The final rule will have no effect on the substantive rights of any public commenters or other interested parties. For these reasons, NHTSA has determined that the effects of this rule are so minimal that a full regulatory evaluation is not required.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the

Regulatory Flexibility Act. For the reasons discussed above, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96-511), there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

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, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 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.

List of Subjects in 49 CFR Part 553

Administrative practice and procedure.

In consideration of the foregoing, 49 CFR Part 553 is revised to read as follows:

PART 553—RULEMAKING PROCEDURES

Subpart A—General

- Sec.
- 553.1 Applicability.
 - 553.3 Definitions.
 - 553.5 Regulatory docket.
 - 553.7 Records.

Subpart B—Procedures for Adoption of Rules

- 553.11 Initiation of rulemaking.
- 553.13 Notice of proposed rulemaking.
- 553.15 Contents of notices of proposed rulemaking.
- 553.17 Participation of interested persons.
- 553.19 Petitions for extension of time to comment.
- 553.21 Contents of written comments.
- 553.23 Consideration of comments received.
- 553.25 Additional rulemaking proceedings.
- 553.27 Hearings.
- 553.29 Adoption of final rules.
- 553.31-553.33 [Reserved]
- 553.35 Petitions for reconsideration.
- 553.37 Proceedings on petitions for reconsideration.
- 553.39 Effect of petition for reconsideration on time for seeking judicial review.

Appendix to Part 553—Statement of Policy: Action on Petitions for Reconsideration

Authority: 49 U.S.C. 322, 1657, 30101, *et seq.*, 30301, *et seq.*, 30501, *et seq.*, 32101, *et seq.*, 32301, *et seq.*, 32501, *et seq.*, 32701, *et seq.*, 32901, *et seq.*, and 33101, *et seq.*; delegation of authority at 49 CFR 1.50.

Subpart A—General

§ 553.1 Applicability.

This part prescribes rulemaking procedures that apply to the issuance, amendment, and revocation of rules pursuant to Title 49, Subtitle VI of the United States Code (49 U.S.C. 30101, *et seq.*).

§ 553.3 Definitions.

Administrator means the Administrator of the National Highway Traffic Safety Administration or a person to whom he has delegated final authority in the matter concerned.

Rule includes any order, regulation, or Federal motor vehicle safety standard issued under Title 49.

Title 49 means 49 U.S.C. 30101, *et seq.*

§ 553.5 Regulatory docket.

(a) Information and data deemed relevant by the Administrator relating to rulemaking actions, including notices of proposed rulemaking; comments received in response to notices; petitions for rulemaking and reconsideration; denials of petitions for rulemaking and reconsideration; records of additional rulemaking proceedings under § 553.25; and final rules are maintained in the Docket Room, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

(b) Any person may examine any docketed material at the Docket Room at any time during regular business hours after the docket is established, except material ordered withheld from the

public under applicable provisions of Title 49 and section 552(b) of title 5 of the U.S.C., and may obtain a copy of it upon payment of a fee.

§ 553.7 Records.

Records of the National Highway Traffic Safety Administration relating to rulemaking proceedings are available for inspection as provided in section 552(b) of title 5 of the U.S.C. and Part 7 of the regulations of the Secretary of Transportation (Part 7 of this title).

Subpart B—Procedures for Adoption of Rules

§ 553.11 Initiation of rulemaking.

The Administrator may initiate rulemaking either on his own motion or on petition by any interested person after a determination in accordance with Part 552 of this title that grant of the petition is advisable. The Administrator may, in his discretion, also consider the recommendations of other agencies of the United States.

§ 553.13 Notice of proposed rulemaking.

Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rulemaking is issued and interested persons are invited to participate in the rulemaking proceedings under applicable provisions of Title 49.

§ 553.15 Contents of notices of proposed rulemaking.

(a) Each notice of proposed rulemaking is published in the Federal Register, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the Federal Register or personally served, includes

(1) A statement of the time, place, and nature of the proposed rulemaking proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceedings.

§ 3.17 Participation of interested persons.

(a) Any interested person may participate in rulemaking proceeding by submitting comments in writing

containing information, views or arguments.

(b) In his discretion, the Administrator may invite any interested person to participate in the rulemaking procedures described in § 553.25.

§ 553.19 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received not later than 15 days before expiration of the time stated in the notice. The petitions must be submitted to: Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC, 20590. It is requested, but not required, that 10 copies be submitted. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the Federal Register.

§ 553.21 Contents of written comments.

All written comments shall be in English. Unless otherwise specified in a notice requesting comments, comments may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15-page limit. Any interested person shall submit as a part of his written comments all material that he considers relevant to any statement of fact made by him. Incorporation by reference should be avoided. However, if incorporation by reference is necessary, the incorporated material shall be identified with respect to document and page. It is requested, but not required, that 10 copies and attachments, if any, be submitted.

§ 553.23 Consideration of comments received.

All timely comments are considered before final action is taken on a rulemaking proposal. Late filed comments may be considered as far as practicable.

§ 553.25 Additional rulemaking proceedings.

The Administrator may initiate any further rulemaking proceedings that he finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or his representative and interested persons at which minutes of the conference are kept, to appear at informal hearings presided over by

officials designated by the Administrator, at which a transcript or minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

§ 553.27 Hearings.

(a) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, nonadversary, fact-finding proceedings, at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel designates a member of his staff to serve as legal officer at the hearing.

§ 553.29 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the Chief Counsel. The rule is then submitted to the Administrator for its consideration. If the Administrator adopts the rule, it is published in the Federal Register, unless all persons subject to it are named and are personally served with a copy of it.

§ 553.31–553.33 [Reserved]

§ 553.35 Petitions for reconsideration.

(a) Any interested person may petition the Administrator for reconsideration of any rule issued under this part. The petition shall be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC, 20590. It is requested, but not required, that 10 copies be submitted. The petition must be received not later than 45 days after publication of the rule in the Federal Register. Petitions filed after that time will be considered as petitions filed under Part 552 of this chapter. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest. Unless otherwise specified in the final rule, the statement and explanation together may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15-page limit.

(b) If the petitioner requests the consideration of additional facts, he must state the reason they were not

presented to the Administrator within the prescribed time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator otherwise provides, the filing of a petition under this section does not stay the effectiveness of the rule.

§ 553.37 Proceedings on petitions for reconsideration.

The Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. In the event he determines to reconsider any rule, he may issue a final decision on reconsideration without further proceedings, or he may provide such opportunity to submit comment or information and data as he deems appropriate. Whenever the Administrator determines that a petition should be granted or denied, he prepares a notice of the grant or denial of a petition for reconsideration, for issuance to the petitioner, and issues it to the petitioner. The Administrator may consolidate petitions relating to the same rule.

§ 553.39 Effect of petition for reconsideration on time for seeking judicial review.

The filing of a timely petition for reconsideration of any rule issued under this part postpones the expiration of the 60-day period in which to seek judicial review of that rule, as to every person adversely affected by the rule. Such a person may file a petition for judicial review at any time from the issuance of the rule in question until 60 days after publication in the Federal Register of the Administrator's disposition of any timely petitions for reconsideration.

Appendix to Part 553—Statement of Policy: Action on Petitions for Reconsideration

It is the policy of the National Highway Traffic Safety Administration to issue notice of the action taken on a petition for reconsideration within 90 days after the closing date for receipt of such petitions, unless it is found impracticable to take action within that time. In cases where it is so found and the delay beyond that period is expected to be substantial, notice of that fact, and the date by which it is expected that action will be taken, will be published in the Federal Register.

Issued on: November 28, 1995.

Ricardo Martinez,
Administrator.

[FR Doc. 95-29394 Filed 12-4-95; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 649, 650, and 651

[Docket No. 950824215-5275-03; I.D. 050295B]

RIN 0648-AH37

American Lobster Fishery; Atlantic Sea Scallop Fishery; Northeast Multispecies Fishery; Vessel Ownership Requirements

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 1 to the American Lobster Fishery Management Plan (FMP), Framework Adjustment 3 to the Atlantic Sea Scallop FMP, and Framework Adjustment 7 to the Northeast Multispecies FMP. This rule implements framework adjustments that revise a provision in each of the FMPs that requires all permit applicants to own a fishing vessel at the time they apply for or renew a limited access permit. The intent of this rule is to allow certain applicants who have owned vessels that meet the various limited access permit qualification criteria, but who do not currently own a vessel, to preserve their eligibility to apply for a Federal limited access permit for a replacement vessel in subsequent years by obtaining a Confirmation of Permit History.

EFFECTIVE DATE: December 4, 1995.

ADDRESSES: Copies of the Framework Adjustments, Amendment 5 to the American Lobster FMP, Amendment 4 to the Atlantic Sea Scallop FMP, and Amendment 5 to the Northeast Multispecies FMP, including regulatory impact reviews, initial regulatory flexibility analyses, and final supplemental environmental impact statements are available upon request from Douglas Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097; telephone 617-231-0422.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 508-281-9272.

SUPPLEMENTARY INFORMATION:

Background

In 1994, NMFS implemented major amendments, developed by the New

England Fishery Management Council (Council), to the FMPs for the Atlantic sea scallop, northeast multispecies and the American lobster fisheries. These amendments, which were intended to address overfishing in these fisheries, implemented measures that limited access to these fisheries based upon historical participation. The Council did not, however, intend to force vessel owners to remain active in currently overfished fisheries in order to retain fishing rights for the future. To address this problem, the Council requested NMFS to implement this action, which will allow an applicant who has owned a vessel that meets the various limited access permit qualification criteria, but who does not own a vessel at the time of application, to preserve his/her right to qualify for a Federal limited access permit for a replacement vessel in subsequent years in the Atlantic sea scallop and northeast multispecies fisheries, and in the American lobster fishery. Qualified applicants will be allowed to apply for a Confirmation of Permit History and will need to apply for such annually to preserve the permit and fishing history of the qualifying vessel. See the proposed rule, which was published in the Federal Register on September 1, 1995 (60 FR 45690), for further background and rationale for this action.

Comments and Responses

The Council had discussed and heard public comment on this issue at the September 21-22, 1994, Council meeting, at which time the Council initiated this framework action. The public was notified of this Council meeting, and of the final Council meeting held on October 28-29, 1994, at which time this action was further discussed. No public comments were received. The proposed rule, however, which was published in the Federal Register on September 1, 1995 (60 FR 45690), provided the public with 15 additional days to comment. No additional comments were received by the September 15, 1995, closing date.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.