lands and other unserved areas. We encourage commenters to discuss any other alternatives that would minimize any significant economic impact on small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

49. None.

List of Subjects

47 CFR Part 1

Communications common carriers, Radio, Telecommunications.

47 CFR Parts 15, 95, and 101

Communications equipment, Radio.

47 CFR Part 22

Communications common carriers, Communications equipment, Radio, Rural areas.

47 CFR Part 24

Personal communications services, Radio.

47 CFR Part 25

Communications common carriers, Communications equipment, Radio, Satellites.

47 CFR Part 26

Communications common carriers, Radio.

47 CFR Part 27

Wireless communications service, Radio.

47 CFR Part 90

Common carriers, Communications equipment, Radio.

47 CFR Part 100

Communications equipment, Radio, Satellites.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–23575 Filed 9–9–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1712, MM Docket No. 99–275, RM–9704]

Radio Broadcasting Services; Keno, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Renaissance Community Improvement Association, Inc., seeking the allotment of Channel 235A to Keno, OR, as the community's second local aural service. The Commission also proposes to allow petitioner to amend its pending application (BPED–950206MB) to specify Channel 235A without loss of cut-off protection in order to resolve the mutual exclusivity with the pending application of St. Michael's Catholic Radio (BPED–950206MH). Channel 235A can be allotted to Keno in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 42–07–30 WL; 121–55–42 NL.

DATES: Comments must be filed on or before October 18, 1999, and reply comments on or before November 2, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Rev. Sandra Soho, President, Renaissance Community Improvement Association, Inc., P.O. Box 111, Klamath Falls, OR 97601–0006 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–275, adopted August 18, 1999, and released August 27, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–23461 Filed 9–9–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket NHTSA–99–5992, Notice 1]

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards Rear Impact Guards

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

ACTION: Denial of petition for rulemaking.

SUMMARY: Federal Motor Vehicle Safety Standard (FMVSS) No. 223 specifies a test procedure for demonstrating that rear impact guards comply with the strength and energy absorption requirements of the standard. This procedure involves a quasi-static test in which the horizontal member of the rear impact guard is slowly pushed for 125 mm, while the amount of resistance it offers is measured. Next, the guard is released and the amount of energy the guard absorbed is calculated.

The Truck Trailer Manufacturers Association (TTMA) submitted a petition for rulemaking requesting three changes to the test procedure. First, TTMA requested that we eliminate the lower bound of the range of acceptable rates of force application, so that the force can be applied in discrete start-stop steps. Second, TTMA requested that the requirement to displace the guard by a full 125 mm be eliminated if it appeared that the guard had met all requirements before that point. Third, TTMA suggested that the elastic rebound from guards that rebound very slowly following removal of the force not be subtracted from the calculated energy absorption. Each of the proposed revisions purports to ease the burden of testing on rear impact guard manufacturers, especially small businesses.

We are denying the petition. TTMA has not demonstrated a need for slower rates of force application. We have already lowered the permissible rate of force application to a level that is not

burdensome, and even allow a manufacturer to specify, within a broad range, the force application rate on which it based its certification. Stopping the test before a displacement of 125 mm is not practical for compliance testing. Since we would have no way of knowing how far a guard would rebound, we could not know, in advance, how much energy the guard would absorb. We have answered TTMA's third request by providing an interpretation of the existing regulatory language. Making that interpretation more explicit in the procedures is not necessary.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC, 20590:

For non-legal issues: Mr. Mike Huntley, Office of Crashworthiness Standards (202–366–0029), e-mail: mhuntley@nhtsa.dot.gov

For legal issues: Mr. Taylor Vinson, Office of the Chief Counsel (202–366–5263), e-mail: tvinson@nhtsa.dot.gov

SUPPLEMENTARY INFORMATION:

I. Background

On January 24, 1996, we published a final rule establishing FMVSS No. 223, Rear Impact Guards, which specifies performance requirements that rear impact guards must meet before they can be installed on new trailers and semitrailers. The standard (49 CFR 571.223) specifies strength and energy absorption requirements, as well as the procedures we will use to demonstrate compliance with the standard. Compliance with the standard may be demonstrated on a non-vehicle rigid ''test fixture'' or on a completed vehicle. We promulgated the energy absorption requirements to address concerns that the rule would permit overly rigid guards that would absorb little or no crash energy. We regarded these guards as undesirable because they would result in a greater likelihood of serious—and possibly fatal—driver and front passenger head and chest injuries by causing a colliding vehicle to stop too suddenly.

To demonstrate compliance with the strength requirements of the standard, the final rule specified a quasi-static test. A guard is tested for strength by slowly pushing it forward, as the guard is oriented on the trailer, with a 203 mm by 203 mm (8 inch by 8 inch) force plate at specified points along the rear side of the horizontal member of the guard. As issued in January 1996, the final rule specified that the guard be moved for a total distance of 125 mm (5 inches) at a constant rate of not less than 1 mm and not more than 1.5 mm per second (6.0 to 9.0 cm/minute). To pass, the guard must resist the specified force within the first 125 mm of displacement. We specified a quasi-static test, instead of a dynamic test (e.g., a crash test), to reduce the cost of testing for the many smaller firms in the trailer manufacturing industry. Such a firm which typically lacks the engineering capabilities and the sophisticated and expensive test equipment that would be required to properly conduct a dynamic test.

FMVSS No. 223's test for energy absorption is conducted by applying a force in the same manner as in the test for strength, but only at either of two specified test points. The force is recorded at least 10 times per 25 mm (1 inch) of displacement until the 125 mm (5 inch) displacement is reached and the force plate is completely withdrawn from the guard. The guard energy absorption is calculated from a force vs. deflection diagram plotted using the data recorded from the tested location. To discourage the manufacture of overly rigid guards, only plastic deformation (permanent deformation) is counted toward meeting the required amount of energy absorption—elastic rebound of the guard does not count. The minimum guard energy absorption of 5,650 joules (4,170 foot-pounds) is sufficient to absorb about 12 percent of the total kinetic energy of a 48 kph (30 mph) centric collision with a 1,135 kg (2,500 lb) vehicle.

In petitions for reconsideration, Great Dane Trailers, Inc. and STRICK Corporation asked us to reconsider the final rule and to increase the permissible range of force application during the strength and energy absorption tests. Both Great Dane and STRICK said they believed that the requirement to maintain a constant rate of between 1 mm and 1.5 mm per second would require them to invest in new and expensive test equipment to meet this requirement, and that the rate of displacement is not a significant indicator of the performance of the guard. In addition, STRICK petitioned the agency to change the requirement from maintaining a constant rate of displacement to one that is ''approximately constant over a time of 1 to 5 minutes.''

We published a response to petitions for reconsideration on January 26, 1998, which incorporated slight modifications to the test procedure (63 FR 3654). We accepted the assertions of the petitioners that new and expensive equipment might be required to achieve the original force application rate, especially when testing stronger guards. Noting that the rate of force application should not make a significant difference in test results when testing guards made of steel (the most common guard material), we significantly broadened the acceptable range of force application to 2.0 to 9.0 cm/minute. We also eliminated the word ''constant'' from the test procedure, as having to maintain a ''constant'' designated displacement rate would make it practically impossible for us to conduct compliance testing. Instead, we allowed the guard manufacturer to designate the displacement rate, within the range of 2.0 to 9.0 cm/minute, on which it based its certification. If we conduct compliance tests, we will use the manufacturer's designated rate, plus or minus 10 percent.

II. Summary of the TTMA Petition for Rulemaking

The TTMA petition requests three changes, each of which is intended to ease the burden of testing on guard manufacturers:

A. TTMA recommends eliminating the 2.0 cm/min lower bound for the force application rate. TTMA contends that this would facilitate testing using simple measuring equipment in a ''stepped'' manner by which a manufacturer could apply a force, measure the force and the corresponding displacement, apply more force, measure the new force and displacement, and continue in this start-and-stop manner until the specified energy absorbed or displacement is achieved. TTMA believes that the 2.0 cm/min lower bound on the force application rate, as a practical matter, prevents manufacturers from using this stepped application of force. Such an application of force could be accomplished using inexpensive test equipment such as manually-controlled pumps and simple measuring devices. A May 27, 1998 memo from TTMA stated that ''the step application of the force for the energy absorption test per our petition of March 26, 1998, could be accomplished in under 30 minutes.'' We assume from this that TTMA would endorse, as an alternative to eliminating the lower bound of the force application rate, a further reduction of the lower bound so that the test could take as long as 30 minutes.

B. TTMA suggests that the test procedures be altered so that it is not necessary to displace the guard the full 125 mm as currently specified in S6.6(c). TTMA believes that if the minimum amount of energy absorption specified in that section has been exceeded during a displacement of less

than 125 mm, and little elastic rebound is anticipated, completion of the test represents an unnecessary expenditure of test resources and money. For example, with a very rigid guard, application of a force sufficient to deflect the guard to 125 mm may destroy the test equipment.

C. TTMA requests the addition of an explicit description to the standard of the point at which the energy absorption test is considered complete. TTMA states that a guard may be designed to displace a material or fluid which, over a period of time, may return the guard to near its original position. TTMA contends that the potential energy stored in this type of guard should not be subtracted from the measured energy absorption in the test per S6.6(c) and Figure 2 of the standard. TTMA suggests that the following phrase be add to the energy absorption test procedures: ''any reduction in displacement (rebound) of the guard one second or more after the force has been removed shall not be subtracted from the measured energy absorbed.''

III. Analysis of the Petition

A. Stepped Application of Force

The final rule was designed in large part to accommodate the needs of small businesses. In specifying a quasi-static test as opposed to a dynamic (full speed crash) test, we sought to reduce the costs for the many small manufacturers that are common in the trailer manufacturing industry. We did this because we believe that a smaller manufacturer may lack the engineering capabilities and the sophisticated and expensive test equipment that would be required to properly conduct a dynamic test. Moreover, in adopting a standard that applies to equipment, we intended to allow small trailer manufacturers to purchase certified guards on the open market without having to conduct any tests before installing them on their trailers.

Our concern for small businesses was also reflected in our January 1998 response to petitions for reconsideration. Great Dane Trailers and STRICK Corporation expressed concern about the need to purchase expensive and sophisticated precision testing equipment to replace their current devices in order to meet the requirement stated in the final rule to maintain a constant rate of force application of between 1 mm and 1.5 mm per second (6.0 cm and 9.0 cm per minute) during strength and energy absorption tests. In response, we acknowledged that the specified rate of displacement during force application may have been too narrow to accommodate slow-pumping force application equipment. We accepted Great Dane's and STRICK's assertions that new and expensive equipment would be required for those companies to achieve the specified rate, noting that more powerful hydraulic pumps are required to achieve higher rates of displacement during the test—especially with stronger guards. Accordingly, we revised the lower bound for displacement rate to 0.33 mm/sec (2.0 cm/minute). We stated:

> Regarding the lower bound for displacement rate, the agency believes that 6.3 minutes is adequate time to achieve the required displacement *without the need for sophisticated control equipment and powerful pumps.* No petitioner has requested a longer period and, unless the agency is presented with evidence of a problem with this rate, it will consider longer periods as unnecessarily prolonging certification and compliance testing. As explained earlier, reasonably slower displacement rates will probably not make a significant difference in test results anyway. Therefore, NHTSA is granting part of STRICK's request and widening the specified displacement rate range to allow displacement rates as low as 0.33 mm/sec. Testing at this rate will allow a 125 mm (5 inch) test displacement to be achieved in a period of about 6 minutes.

(63 FR 3659, emphasis added)

Thus, we have already *significantly broadened* the acceptable range of force application rate from a minimum of 6.0 cm/minute to a minimum of 2.0 cm/minute, to accommodate small manufacturers.

Our establishment of the revised lower bound of 2.0 cm/minute was based, at least in part, on an evaluation of the capabilities of the relatively unsophisticated test equipment used by the Vehicle Research and Test Center (VRTC) test program to evaluate the effectiveness of rear impact guard designs during the development of the final rule. Most modern test equipment is controlled by a computer with a feedback system capable of quickly and automatically adjusting the displacement rate. However, we recognized that precise adjustment of the rate without computer control may be impracticable. In an effort to be sensitive to smaller manufacturers, who may not have computer-controlled equipment, we revised the standard to specify the distance on a per-minute time scale (as opposed to a per-second time scale as initially required) to allow for practical adjustments of the rate of displacement within each minute.

When we conduct compliance testing, we use a continuous application of force, such that the displacement rate of the force application device is the rate, plus or minus 10 percent, of that designated by the guard manufacturer within the range of 2.0 cm per minute to 9.0 cm per minute. The petitioner does not address whether or how this test protocol would be compared with certification testing using a stepped application of force, versus a continuous application, as currently required. Eliminating the lower bound of force application rate altogether could theoretically allow guard manufacturers to perform a stepped application of force in a certification test over a period of many hours or even days if they believed that the physical properties of the guard material being used would somehow allow it to perform better with the force applied in small increments over extended time periods.

We did not contemplate such a slow application of force when we concluded from the testing leading up to the final rule that a quasi-static test would be an adequate alternative to a dynamic test. It is possible that some brittle materials with low ductility could pass the test under these conditions but fail at a force application rate higher than 2.0 cm/min. Obviously, such materials would not perform adequately as underride guards. Moreover, as we noted in our response to petitions for reconsideration, at some point, the slowing of force application rate creates administrative difficulties because it unnecessarily prolongs compliance testing.

Before we will eliminate or again lower the permissible force application rate specified in FMVSS No. 223, a petitioner must clearly demonstrate that a hardship exists. A petition for rulemaking must ''set forth facts which it is claimed establish that an order is necessary'' (see 49 CFR 552.4). TTMA's petition does not provide sufficient evidence that a significant number of smaller trailer manufacturers are currently unable to conduct testing because of the expense and sophistication of the test equipment required. It does not provide specific information regarding the number (or percentage) of trailer manufacturers that are being negatively affected, the cost differential between the equipment that is required to meet the current standard versus that which could be used if the proposed amendment were to be adopted, or any other supporting information that would persuade us that a hardship exists. Without such information, we are unable to conclude that there is a need for eliminating or further reducing the minimum force application rate specified in S6.6(a) of FMVSS No. 223.

B. Ending the Energy Absorption Test Prior to Full Guard Displacement

TTMA wants the test procedures revised to specify that the energy absorption test ends before 125 mm of displacement ''if 5,650 J of energy absorption has been exceeded.'' TTMA contends that if the minimum amount of energy absorption required by S6.6(c) has been exceeded during a displacement of less than 125 mm, ''and little elastic rebound is anticipated,'' it is not necessary to fully displace the guard to 125 mm as currently specified in S6.6(c). TTMA presumably believes that if little elastic rebound is anticipated, completion of the test to a full 125 mm after the guard has apparently exceeded the amount of energy absorption required would not change the test results, and therefore represents an unnecessary expenditure of test resources and money.

Our compliance test procedure is very explicit regarding how far the guard must be displaced, and is consistent with the final rule. The guard energy absorption portion of our compliance test procedure, TP–223–01, dated October 20, 1997, states:

Apply force to the guard in a forward direction * * * until displacement of the force application device has reached 130 mm, + 0, − 5 mm. Then reduce the load until the guard no longer offers resistance to the force application device. Determine the energy absorbed in the guard by calculating the area bounded by the curve in the force vs. displacement plot. See Figure 2. Record the energy absorbed, and the maximum load and displacement on Data Sheet 3. Include the force vs. displacement plot with the data sheet.

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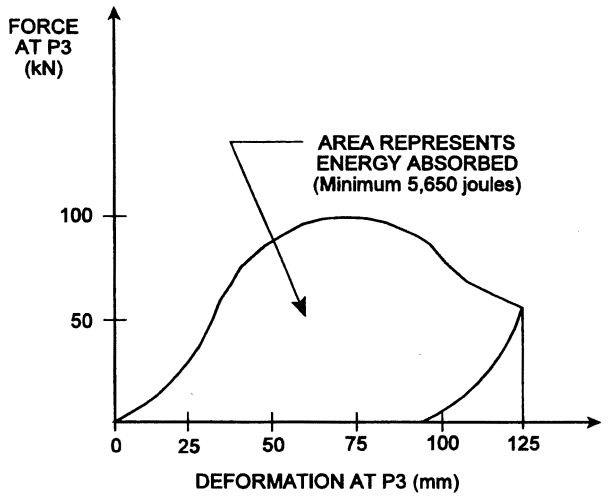
FIGURE 2. GUARD ENERGY ABSORPTION
(TYPICAL FORCE-DEFLECTION CURVE AT P3)



BILLING CODE 490–59–C

(Not actual test date—for illustrative purposes only.)

TTMA's suggested revision is not practicable. As noted earlier, the amount of energy is determined by calculating the area enclosed within the force deflection curve, and the elastic rebound (the small triangle in the lower right of the figure above) is not counted. When we conduct compliance testing, it is impracticable for us to predict the amount of elastic rebound that a given guard design will exhibit. While in some cases a premature end to the test might produce a force-deflection curve with enough area enclosed within it to pass the test, in other cases, it might not. If we ended the test prematurely and the guard unexpectedly exhibited excessive elastic rebound, it might not pass the test. In this case, we would need to conduct another test, pushing the guard to the full 125 mm in order to eliminate the possibility that the guard would experience more plastic deformation during the final centimeters, causing it to rebound less after the force was removed, and passing the test because of the increased area in the curve.

Moreover, basing a test procedure on assumptions that we make during a particular test would not meet the statutory requirement that our standards be objective. The required performance level must be based on a specific test procedure in order to be objective.

Finally, we note that manufacturers are free to conduct their certification tests in any way they wish. They may follow the test procedures in the FMVSS. Those are the procedures that the agency will follow in conducting its compliance tests. Alternatively, the manufacturers may follow other procedures or they use methods of analysis that do not involve testing, so long as they are reasonably likely to give the same results as the procedures in the FMVSS.

For example, in the specific case of FMVSS No. 223, it is reasonable to believe that a guard that absorbs the required amount of energy when displaced some amount less than 125 mm will absorb more energy when deflected by the full 125 mm. Therefore, a manufacturer could reasonably certify compliance based on a test that was ended prior to its completion. However, we will follow the test procedures in the FMVSS when conducting compliance tests. Further, the 125 mm requirement was specified based on the energy absorption of a NHTSA designed and built complying guard when subjected to a dynamic crash of a vehicle colliding with the guard at 48 kph (30 mph). Changing the test conditions would result in compromising the level of protection of the occupants of the colliding vehicle.

C. Definition of Termination of Energy Absorption Test

TTMA wants us to include in the energy absorbed any rebound that occurs more than one second after the force has been removed.

After the final rule was issued, we received a request for interpretation on this subject from Mr. Robert S. Toms. He asked whether the requirement that the energy absorption be accomplished by

plastic deformation would preclude the use of a material produced by his company that returns to its original shape (i.e., elastic) very slowly, on the order of approximately 24 hours. In summary, our response to Mr. Toms stated that such slow-rebounding elastomeric materials could be used if the guards equipped with them passed the compliance test procedures.

Our August 4, 1998 response to Mr. Toms explained that the purposes of the standard could be fulfilled using a guard with a slow-rebounding elastomeric material. The requirement that guards absorb energy was intended to ensure that guards were not too rigid during the onset of force in a crash. The requirement that they absorb the energy by plastic deformation was to ensure that the guard did not subsequently return the absorbed energy to the colliding vehicle, because that energy return could increase the risk of death or injury to the occupants. Therefore, any rebound occurring after the crash event, especially slow rebound such as is produced by guards using some slow-acting elastomeric materials, would not, in the real world pose any threat to passenger vehicle occupants. Therefore, for real world safety purposes, the time frame within which a material must retain its deformed shape to be considered ''plastic'' is the duration of a crash event.

The relevant time period for compliance purposes, however, is longer. Standard No. 223 employs a quasi-static test, not a dynamic test, in testing for compliance with its requirements. We have no way of determining whether a material would rebound within the time frame of the crash. Therefore, if an elastomer reacts in such a way that it passes the test procedure, it will have passed the requirements. Identification of the end of the test is therefore critical in determining whether a material will pass the test. The interpretation defined the end of the test as follows:

A specific event determines when the test ends. The force application/withdrawal portion of the test procedure is over as soon as the guard no longer offers resistance to the force application device. Since S6.6(c) is a list of steps to be performed, it is reasonable to assume that once a certain step is completed, the next step will be commenced. The step of reducing the force proceeds only ''until the guard no longer offers resistance.'' In practical terms, the guard will generally cease to offer resistance when it loses contact with the force application device. NHTSA has no way of determining any small amount of residual force generated by your elastomer after that point. A properly calibrated load cell (a typical load measuring device) should register zero load, and the force deflection trace should meet the abscissa of the graph upon separation. After that happens, the test itself is completed and all that remains is the computation of the amount of energy absorbed using the area within the force deflection curve.

Therefore, while we generally agree with TTMA that the test should end when the force has been reduced to zero, there is no need to wait for one second to see if the guard re-connects with the test plate. Ending the test immediately when the test plate separates from the guard satisfies TTMA's concern. As explained in the interpretation letter, there is adequate support for that procedure in the existing regulatory text. The current language ''[r]educe the force until the guard no longer offers resistance to the force application device'' sufficiently describes the completion of the test for purposes of calculating the amount of energy that has been absorbed. We do not believe any change to the text of the standard is necessary to define the end of the test.

IV. Conclusion

For the reasons given above, we conclude that TTMA has not justified the need for further rulemaking on this standard. TTMA has not provided information demonstrating a need for a lower force application rate. It is not practicable or objective for compliance tests to end prematurely based on assumptions that we make about particular guard designs or materials. And, while we agree that the industry needs to understand precisely at what point the energy absorption test ends, the existing regulatory language on this issue has already been clarified through interpretation. We believe it is sufficiently explicit.

In accordance with 49 CFR part 552, this completes the agency's review of the petition. We have concluded that the TTMA has not adequately documented problems with the current procedures. Based on the available information, we believe that there is no reasonable possibility that the actions requested by TTMA would be taken at the conclusion of a rulemaking proceeding and that the problem alleged by TTMA does not warrant the expenditure of agency resources to conduct a rulemaking proceeding. Accordingly, we deny TTMA's petition.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: September 7, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–23520 Filed 9–9–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990830239–9239–01; I.D. 082499A]

RIN 0648–AM99

Fisheries of the Northeastern United States; Northeast Multispecies and Atlantic Sea Scallop Fisheries; Northeast Multispecies and Atlantic Sea Scallop Fishery Management Plans

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

ACTION: Advance notice of proposed rulemaking; notice of a control date for the purposes of controlling capacity or latent effort in the Northeast multispecies and Atlantic sea scallop fisheries.

SUMMARY: NMFS announces that it is considering, and is seeking public comment on, proposed rulemaking under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to control future access to the Northeast multispecies and Atlantic sea scallop fisheries. This notification is intended, in part, to discourage speculative activation of previously unused effort or capacity while the New England Fishery Management Council (Council) and NMFS are considering whether and how to control capacity and latent effort. The date of publication of this notification, September 10, 1999, shall be known as the ''control date'', and may be used for establishing eligibility criteria for determining levels of future access to the Northeast multispecies and Atlantic sea scallop fisheries subject to Federal authority.

DATES: Comments must be received by October 12, 1999.

ADDRESSES: Comments should be directed to Patricia Kurkul, Regional Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298.