Open Video Systems (''OVS'')

91. The Commission has certified 25 OVS operators with some now providing service. We conclude that at least some of the OVS operators qualify as small entities.

Electronics Equipment Manufacturers

92. Rules adopted in this proceeding could apply to manufacturers of DTV receiving equipment and other types of consumer electronics equipment. We conclude that there are no more than 542 small manufacturers of audio and visual electronics equipment and no more than 1,150 small manufacturers of radio and television broadcasting and wireless communications equipment for consumer/household use.

Computer Manufacturers

93. We conclude that there are approximately 544 small computer manufacturers.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

94. At this time, we do not expect that the proposed rules would impose any significant additional recordkeeping or recordkeeping requirements. While the requirements proposed in the *NPRM* could have an impact on consumer electronics manufacturers and broadcasters, such impact would be similarly costly for both large and small entities. We seek comment on whether others perceive a need for more extensive recordkeeping and, if so, whether the burden would fall on large and small entities differently.

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

95. 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.

96. The deadlines we proposed for replication and maximization for in-core channels would give the largest commercial stations in the largest markets on in-core channels three years to acquire necessary financing, develop business plans, and expand their digital service areas. Taking into consideration smaller-market commercial stations, smaller commercial stations in larger markets, and noncommercial DTV licensees, which may face greater obstacles in moving towards full replication or service maximization, we proposed alternative replication and maximization deadlines allowing close to the maximum time under the current statutory transition period to complete their replication and maximization facilities. We welcome comment on modifications of the proposals if such modifications might assist small entities and especially if such are based on evidence of potential differential impact.

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

97. None.

Ordering Clause

98. Pursuant to the authority contained in sections 4(i) and (j), 303, 307, 309 and 336 of the Communications Act of 1934 as amended, 47 U.S.C. 154(i) and (j), 303, 307, 309 and 336, this *NPRM is adopted.*

99. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *NPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

List of Subjects in 47 CFR Parts 73, 74, 76, and 90

Administrative practice and procedure, Cable television, Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–3812 Filed 2–14–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 03–14477, No. 1]

Federal Motor Vehicle Safety Standards

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

ACTION: Denial of petition for rulemaking.

SUMMARY: The agency denies a petition for rulemaking from Mr. Ronald J. Slaughter requesting that NHTSA initiate rulemaking to consider requiring motor vehicle manufacturers to equip new vehicles with instrumentation sufficient to alert vehicle drivers and nearby police whenever the vehicles are being operated while one or more of the occupants is unbelted. Mr. Slaughter suggested that implementation of the requested amendment would lead to increases in the rate of safety belt use.

The agency is denying the petition for the following reasons. First, implementation of the requested amendment would be costly since it would necessitate the installation of seat belt use sensors, seat occupancy sensors, and light sources in each vehicle. Second, the requested amendment would have limited effect on safety belt use rates in the states whose safety belt use laws permit officers to stop a vehicle or issue a citation for failure to use a safety belt only if the officers also observe a separate concurrent violation. Third, the agency is concerned about consumer acceptance of the system proposed by the petitioner. Fourth, occupants who do not want to wear their seat belts can easily circumvent the system by placing the seat belt behind them or modifying the light to stay on all the time.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. Sanjay Patel of the NHTSA Office of Crashworthiness Standards. Telephone: (202) 366–4583, facsimile: (202) 366–4329.

For legal issues, you may call Ms. Rebecca MacPherson of the NHTSA Office of the Chief Counsel. Telephone: (202) 366–2992, facsimile: (202) 366–3820.

SUPPLEMENTARY INFORMATION: On January 25, 2000, Mr. Ronald J. Slaughter submitted a petition for rulemaking requesting that NHTSA consider requiring motor vehicle manufacturers to equip new vehicles with lights inside and outside the vehicle that would continuously burn and be visible to the driver and to those outside the vehicle as long as all vehicle occupants are belted. Mr. Slaughter believes that continuously burning lights on the instrument panel would give the driver more control over his or her passengers, reminding them to ''buckle up.'' Further, Mr. Slaughter suggested that lights visible outside the vehicle would help police officers enforce mandatory seat belt use laws. He believes that such lights would increase safety belt use, assist in the identification of drunk or otherwise

impaired drivers, and reduce traffic crash injuries and fatalities. Mr. Slaughter did not provide any data or other information relating to the cost of such devices or any studies performed regarding the effectiveness or feasibility of such a system.

NHTSA is very supportive of efforts to increase safety belt use and agrees that the failure of many motor vehicle occupants to use safety belts is a significant concern. The agency has expended considerable effort and resources to improve the rate of safety belt use in the United States. NHTSA has prepared and distributed numerous legislative fact sheets, position papers, success stories, model laws for both seat belts and child passenger safety, and other materials on the benefits of mandatory seat belt use and child passenger safety laws. Agency employees have testified, when invited by state officials, at state legislative hearings for states considering the enactment of the belt use laws.

Recently, at the invitation of state officials, NHTSA employees have testified in support of attempts within various states to change secondary enforcement laws, under which police officers must observe a separate and distinct violation before stopping a vehicle where occupants are not using belts, to primary enforcement laws. Primary enforcement laws allow police officers to make stops and issue citations for the failure to wear a seat belt without first observing another violation unrelated to seat belt use. Presently, 18 states and the District of Columbia have enacted such laws.

NHTSA has also established cooperative agreements with numerous states to demonstrate that publicized enforcement of a mandatory seat belt use law can increase seat belt use and formed formal partnerships with many national organizations for the purpose of mobilizing their membership to promote traffic safety in general, and seat belt and child safety seat use in particular. The agency has produced brochures, posters, videos, print ads, billboards, public service announcements, and a host of other media resource materials to educate the public on the safety benefits of seat belts. Other activities pursued by the agency to improve belt use include programs to improve the training of law enforcement officers, the use of child safety seat checkpoints, and other measures designed to improve belt use and enforcement of mandatory belt use laws.

Despite the agency's on-going efforts and interest in encouraging full use of vehicle safety belts, NHTSA has considered and rejected two proposals similar to Mr. Slaughter's in recent years. In both cases, the agency reluctantly concluded that the potential safety benefits of the proposed requirements were outweighed by other factors. On February 24, 1999 (64 FR 9118), the agency published a denial of a petition from Mr. Les Boyd requesting that the agency consider requiring motor vehicle manufacturers to equip new vehicles with instrumentation sufficient to alert nearby police whenever the vehicles were being operated with an unbelted occupant. In denying the Boyd petition, the agency expressed three major concerns about the general use of instrumentation to alert police. First, NHTSA explained that implementation of the requested amendment would have been costly because it would have necessitated the installation of sensors in each seating position to identify unbelted occupants as well as a transmitter in each vehicle to alert nearby police.

Second, the agency stated that it anticipated that adopting the requested requirements would lead to only a modest increase in safety belt usage in the majority of states with secondary seat belt use laws because those states only permit officers to stop a vehicle or issue a citation for an occupant's failure to use a safety belt if the officers also observe a separate, concurrent violation. The agency further stated that it did not anticipate that granting Mr. Boyd's petition would lead to a substantial increase in seat belt use even in those states whose mandatory seat belt use laws permit officers to enforce those laws without first observing a separate, concurrent violation. Third, NHTSA expressed reservations about the amount of identifying information that would need to be transmitted in order for police to determine which vehicles were being operated with unbelted occupants, stating that the transmission of such detailed information raised significant privacy concerns.

On November 5, 1999 (64 FR 60625), the agency denied a petition from Carl Nash and Donald Friedman. The petitioners proposed requiring certain inducements to fasten all occupant safety belts, such as continuous visual reminders, audible suggestions, or interruption of non-essential accessories such as air conditioning. In denying the petition, the agency expressed concerns about the effectiveness of continuous visual reminders, pointing to a lack of ''information indicating that such a reminder would likely result in additional safety benefits over the existing warning systems.'' The agency also stated its opinion that NHTSA lacks the statutory authority to require audible suggestions or system interruption. The agency reconfirmed this opinion in the preamble to the Advanced Air Bag final rule, published on May 12, 2000 (65 FR at 30734), as well as in a letter to Dr. Nash on June 6, 2000.

In evaluating Mr. Slaughter's petition, we believe that there is no apparent reason to require continuously burning lights to indicate that all occupants are belted. First and foremost, there are no data relating to the costs of such a system or any studies indicating its effectiveness or feasibility. With respect to the petitioner's proposal to require a continuously burning light positioned outside the vehicle, the agency believes that doing so would be unlikely to enhance appreciably the ability of police officers to determine whether occupants are wearing their safety belts. In many cases, officers can already see whether an occupant's shoulder belt is being worn by looking through the vehicle's windows. We acknowledge that an illuminated, external light would be more effective than plain visual inspection in certain circumstances, however, such as at night, during periods of inclement weather, or in other situations when visibility is severely limited.

As to Mr. Slaughter's proposal to require a continuously burning light inside the vehicle, on the dashboard, we note that the agency presently requires vehicles to be equipped with an internal light and an audible warning to remind the vehicle's driver to fasten his or her safety belt. (*See* Federal Motor Vehicle Safety Standard No. 208, paragraph S7.3.) This light normally remains illuminated when the driver's safety belt is not being worn. The agency believes that the combined effect of requiring an audible warning system and dashboard light inside the vehicle keyed to the driver's seating position, coupled with the ability of police offers to observe (in normal driving conditions) from outside the vehicle, whether shoulder belts are being worn already provides many of the ''reminder'' and enforcement benefits the petitioner contends would be realized by his proposal.

Not only would the benefits from adopting the petitioner's proposal appear to be minimal, but also the costs of requiring manufacturers to install continuously burning lights inside and outside the vehicle would likely be high. To work in the manner suggested by the petitioner, each seating position would not only need a belt-use sensor in every safety buckle, but every seating position other than the driver's seat would also have to have some form of seat sensor to indicate whether the seat

was occupied. Each vehicle would also need to be equipped with a wiring harness and internal and external lights, designed to illuminate only when the safety belts in all ''occupied'' seats registered as fastened. Based on the comparatively simpler weight sensors and wiring harnesses used in the BMW advanced air bag system, the agency estimates that the minimum cost for a vehicle with five seating positions would be at least $50 per vehicle. Substantially greater costs would be incurred in vehicles with more seating positions and/or vehicles with readily removable seats.

In addition to the potentially high cost of the petitioner's proposal, the agency is also concerned about consumer acceptance of such a system. Vehicle seats, especially rear seats, are frequently used to transport cargo such as groceries, luggage, pets, and other heavy objects. If the system were to work as envisioned by the petitioner, the mere placement of such items on a vehicle's seat coupled with a failure to fasten the associated belt would prevent the continuously burning lights from illuminating, thus indicating falsely to police officers that the vehicle was being operated with unbelted ''occupants.'' Such ''false alarms'' would likely lead to widespread consumer backlash and disapproval. Other ''false alarms'' could occur when the light bulbs burn out and need to be replaced by the consumer. Occupants who do not want to wear their seat belts can also easily circumvent the system by placing the seat belt behind them or modifying the light to stay on all the time.

Finally, we note that Congress has requested that NHTSA conduct a study to consider whether unobtrusive technologies could increase belt use. In response, NHTSA has contracted with the Transportation Research Board of the National Academy of Sciences to conduct a study on the benefits and acceptability of these technologies, as well as any legislative or regulatory actions that may be necessary to enable installation of devices to encourage seat belt use in passenger vehicles. In conjunction with this study, NHTSA is also conducting research to determine what levels of intrusiveness would induce non-belt users to wear their seat belt, without causing adverse reactions from current belt users.

For the reasons stated above, NHTSA concludes that it is unlikely that a rulemaking proceeding to require continuously burning lights inside and outside the vehicle tied to safety belt usage as suggested by the petitioner would result in the issuance of a rule requiring such a device. Accordingly, the petition is denied. Upon completion of the National Academy of Sciences' and our own studies, we will consider what future action the agency will take on this issue.

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

Issued: February 10, 2003.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 03–3832 Filed 2–14–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 020503A]

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Scoping Process

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS); notice of scoping meetings; request for comments.

SUMMARY: The Mid-Atlantic and New England Fishery Management Councils (Councils) announce their intention to jointly prepare, in cooperation with NMFS, an EIS in accordance with the National Environmental Policy Act to assess potential effects on the human environment of alternative measures for managing the spiny dogfish (*Squalus acanthias*) fishery pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). The Councils are developing Amendment 1 to the Spiny Dogfish Fishery Management Plan (FMP) to address rebuilding targets and timeframes, methods to estimate discard mortality and reduce discarding, the quota allocation scheme, and potentially other management measures as well. This notification announces a public process for determining the scope of issues to be addressed and for identifying the significant issues relating to management of spiny dogfish. The intended effect of this notification is to alert the interested public of the scoping process and to provide for public participation.

DATES: Written comments on the intent to prepare an EIS must be received on or before 5 p.m., local time, April 4, 2003. A public scoping meeting will be held on Monday, March 17, 2003, at 7:00 PM.

ADDRESSES: Written comments on the intent to prepare the EIS and requests for the scoping document or other information should be directed to Mr. Daniel T. Furlong, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New St., Dover, DE 19904, (Phone 302–674–2331). Comments may also be sent via facsimile (FAX) to (302) 674–5399. Comments will not be accepted if submitted by e-mail or Internet.

A scoping hearing will be held at 7:00 PM on March 17, 2003 at the Sheraton Oceanfront Hotel (36th Street & Atlantic Ave.), in Virginia Beach, VA.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel T. Furlong, Mid-Atlantic Fishery Management Council, telephone (302) 674–2331.

SUPPLEMENTARY INFORMATION:

Fishery Management Unit

The management unit is all Atlantic spiny dogfish (Squalus acanthias) in U.S. waters in the western Atlantic Ocean.

Problems Discussed For this Amendment

1. Define a rebuilding biomass target and agecomposition

Currently, there is no rebuilding target for the spiny dogfish stock because the rebuilding target established in the original FMP was disapproved. It will be necessary to establish a new target that will identify the stock size that corresponds to a recovered spiny dogfish stock as defined under the MSFCMA. Examples of rebuilding targets are BMSY (population biomass (B) that supports Maximum Sustainable Yield (MSY)) and SSBmax (female Spawning Stock Biomass (SSB) that maximizes recruitment). Additionally, identification of a target age structure for the rebuilt stock has been suggested. Target age compositions proposed thus far include those corresponding to (1) the average from 1980–88 and (2) the average from 1989–93.

2. Choose a rebuilding timeframe consistent with National Standards Guidelines

The National Standards Guidelines of the MSFCMA provide minimum and maximum time limits for rebuilding fish stocks that are classified as overfished. The lower limit of the specified time period for rebuilding is the amount of time that would be required for rebuilding if fishing mortality were