

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 98-237, FCC 98-337]

3650-3700 MHz Government Transfer Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to allocate the 3650-3700 MHz band to the non-Government fixed service on a primary basis. In addition, we order that applications for use of this band by new or major modified earth station facilities in the fixed-satellite service ("FSS") will no longer be accepted, as December 18, 1998, the release date of this *Notice of Proposed Rule Making and Order*. We also propose to delete the existing Government and non-Government radiolocation service allocations from the 3650-3700 MHz band, but will grandfather three existing Government radiolocation sites. We also propose to delete the unused Government aeronautical radionavigation service allocation from the 3650-3700 MHz band. The adoption of these proposals would provide spectrum for new fixed services.

DATES: Comments are due February 16, 1999, reply comments are due March 1, 1999.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, Office of Engineering and Technology, (202) 418-2450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making and Order*, ET Docket No. 98-237, FCC 98-337, adopted December 17, 1998, and released December 18, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Summary of the Notice of Proposed Rule Making and Order

1. *Introduction.* By this action, we propose to allocate the 3650-3700 MHz

band to the non-Government fixed service on a primary basis. We envision that this spectrum will be used to provide a broad range of new fixed point-to-point and point-to-multipoint services, directly linking residences, businesses, and other fixed locations to an ever-developing array of networks. Through these new links, traditional voice telephony and a wide variety of new broadband, high-speed, data and video services, such as Internet access and video conferencing, could be delivered to the home and to small businesses. This new fixed service may thus lead to new and more effective competition to existing wireline local exchange carrier services by providing for an economical means to offer competitive "local loop" or "last-mile" facilities. One such service that could operate in this band is Fixed Wireless Access ("FWA"), but we do not intend to constrain use of the band only to that purpose. In addition, we intend that this proposal will be helpful in achieving the overarching goal of section 706 of the Telecommunications Act of 1996, to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans * * * by utilizing * * * measures that promote competition in the local telecommunications market."

2. To ensure that adequate opportunities exist for the provision of fixed services in the 3650-3700 MHz band, we will no longer accept applications for use of this band by new or major modified earth station facilities in the FSS, as of December 18, 1998, the release date of the *Notice of Proposed Rule Making and Order*. Existing earth stations, however, will be grandfathered. We also propose to delete the existing Government and non-Government radiolocation service allocations from the 3650-3700 MHz band, but will grandfather three existing Government radiolocation sites. In addition, we propose to delete the unused Government aeronautical radionavigation service allocation from the 3650-3700 MHz band. Finally, we request comment on whether, to realize the full potential benefits of this spectrum, the band should be offered for license as a single 50 megahertz block on either a nationwide or large regional service area basis.

A. Fixed Service Proposal

3. An important spectrum management goal of the Commission for terrestrial commercial wireless services is to promote efficient and flexible use of the electromagnetic spectrum while enabling licensees to use the spectrum free of harmful interference. Specifically

for the 3650-3700 MHz band, our reallocation decision must accommodate continued use of the band for incumbent earth station reception of FSS signals—which are significantly weaker than the anticipated terrestrial service signals—and for incumbent high-powered Government radars transmitting from three grandfathered sites. Moreover, our decision must account for the extremely high emissions that are produced by high-powered Government fixed and mobile radar operations in adjacent spectrum below 3650 MHz. In light of this challenging spectrum sharing environment, we tentatively find that mobile service use of the 3650-3700 MHz band would be severely constrained but that the band is well suited for fixed service use.

Nonetheless, we believe that there is a broad range of fixed services that could operate in this spectrum. In particular, a fixed service allocation in this band may facilitate an alternative means of providing basic telephone service, thus mitigating the impact of the local loop bottleneck and fostering a competitive market structure for direct PSTN access to residential and small business consumers. A fixed service allocation also may be used to provide broadband access to the Internet, thus furthering the general objectives of section 706 to bring competitive, advanced telecommunications capability to all Americans.

4. Internationally, this type of fixed service is known as FWA and there is strong interest in providing for these services in the 3400-3700 MHz frequency range, especially the 3400-3600 MHz band. In the United States, the 3400-3600 MHz band is not available because it is heavily used by the military, thus allocation of alternative or additional spectrum that could be used for this type of service may be desirable. We believe that the 3650-3700 MHz band is viable for the provision of some types of FWA services. Accordingly, we propose to allocate the 3650-3700 MHz band to the fixed service on a co-primary basis with incumbent non-Government FSS earth stations and with Government radiolocation operations from three grandfathered sites. However, in keeping with our policy favoring a licensee's innovative use of the spectrum in response to consumer market demand, we do not intend to designate the allocation for, or to limit use of this spectrum to, FWA services. Thus, the extent to which FWA—or any other particular fixed services—would be implemented in the proposed

allocation would be determined solely by market forces. We anticipate that this spectrum will be initially licensed by competitive bidding pursuant to the authority granted under section 309(j) of the Communications Act. We seek comment on our proposal.

5. During the coordination process, NTIA informed us that the recently enacted statutory provision concerning payment of the relocation costs of Federal entities does not apply to the 3650–3700 MHz band. Based on our own independent analysis, we reach the same conclusion.

6. Commenters should also address various technical issues pertinent to fixed service use of the 3650–3700 MHz band, including FWA. For example, we are aware that existing FWA technology deployed internationally in the 3400–3600 MHz band uses Frequency Division Duplex (“FDD”) technology with either a 50- or 100-megahertz separation between transmit and receive channels. The amount of spectrum available in the instant allocation, however, lends itself to a maximum separation of 25-megahertz, which may be insufficient to support traditional FDD technology. Nevertheless, fixed services using Time Division Duplex (“TDD”) technology may be viable in the band. We request comment on these technical issues. Commenters should address whether FDD technology could be successfully developed and deployed in this band and whether TDD technology deployment in the band is likely to be viable for service to consumers.

7. We also want to consider the ramifications of our allocation proposal for the development of service rules in a subsequent rulemaking proceeding. Generally, we request comment on whether the Local Multipoint Distribution Service (“LMDS”) (Part 101, Subparts L and M) or Wireless Communications Service (“WCS”) (Part 27) service rules, modified as necessary, or an entirely new set of service rules, should be applied to the fixed services offered pursuant to the new allocation. Specifically, in view of the limited amount of spectrum subject to the proposed allocation and the significant pertinent technical constraints, we request comment on how a choice of initial spectrum licensing blocks and geographic service areas will, in light of the current state of technology, affect the viability in the band of the various fixed services, including FWA. In particular, we seek comment on the size of the spectrum blocks within the 3650–3700 MHz band that should be offered for initial licensing. For instance, should the spectrum be initially

licensed as a single 50-megahertz block or would the various fixed services still be viable if initially licensed as two or more blocks of spectrum? If the latter, should the spectrum be initially offered as contiguous or paired blocks and, if paired blocks, should they be symmetric or asymmetric in size. In addition, we seek comment on the appropriate geographic size of service areas for initial licensing. Specifically, we request comment on whether, in order to facilitate widespread competition in the “local loop” or “last-mile” facilities market, the band should be initially licensed for a single nationwide service area, or for several large regional service areas, or for some other choice of smaller geographic service areas. We invite comment on the competitive ramifications of offering only a single license, covering the entire 50 megahertz of spectrum nationwide. For example, could such a sole licensee garner an economic monopoly or have undue market power, or would it face adequate competition from wireline and wireless service providers? To what extent, if any, would imposition of licensee eligibility requirements affect the answer to the preceding question?

8. The specific radio frequency environment for the 3650–3700 MHz band in the United States raises additional technical issues. Any new service in the band must be able to co-exist with extremely high-powered Government mobile radar systems in the adjacent 3300–3650 MHz band, as well as with occasional high-powered in-band use at three grandfathered sites (Pascagoula, Mississippi; Pensacola, Florida; and Saint Inigoes, Maryland). We request comment on what actions we should take to promote the ability of new services to co-exist with these radars. Also, given the need to protect adjacent band FSS earth station reception, we request comment on whether the out-of-band emissions limit of $43 + 10 \log(P)$ dB should be applied to the proposed fixed service allocation. In addition, we request comment on whether Very Small Aperture Terminals (“VSATs”) should be precluded from operating in spectrum immediately adjacent to the new fixed service allocation, perhaps by requiring a 3.5-meter diameter minimum antenna size for earth stations licensed to receive the 3700–3720 MHz segment.

9. As part of our evaluation of the 3650–3700 MHz band for the proposed fixed service, we are cognizant of the need to protect earth station reception of very weak signals transmitted by geostationary orbit FSS satellites in the band. We are disinclined, however, to apply to this band the spectrum sharing

criteria now used in the adjacent 3700–4200 MHz band. In particular, we note that the maximum equivalent isotropically radiated power limit now employed for long-haul fixed point-to-point transmissions in the 3700–4200 MHz band—55 dBW per polarization—appears inappropriate for short-haul fixed point-to-multipoint services that licensees may wish to provide in the 3650–3700 MHz band. Specifically, we observe that high-power, fixed point-to-point operations co-exist with C-band earth stations because of the extremely large coordination distances employed in siting new facilities; but these coordination distances may unnecessarily constrain the deployment in the band of fixed links that require less power. For instance, one frequency coordinator, Comsearch, requires coordination of all new C-band microwave stations that would be located within a 125-mile radius around any FSS earth station operating in C-band. This coordination method, however, appears too onerous for other fixed services that could use the 3650–3700 MHz band. Instead, if appropriately more restrictive power limits were imposed on some fixed service uses of this band, e.g., FWA, we believe that the viability of these services in the band would be unaffected and that the coordination distance requirement could be significantly reduced. For example, we could subject certain fixed stations transmitting in the 3650–3700 MHz band to power limits similar to those now employed for Broadband PCS, i.e., a base station height/power limit of 1640 watts peak e.i.r.p. with an antenna height up to 300 meters (984 feet). We request comment on this issue, and on the appropriate coordination distances needed to protect in-band FSS earth station reception if the above height/power limit and the associated height/power reduction table are ultimately adopted. Commenters should address how the choice of technical parameters affects the viability in the band of various fixed services and their ability to coordinate or share spectrum with FSS earth stations.

B. Other Services

10. *FSS.* In order to preserve the availability of the 3650–3700 MHz band for the proposed fixed service, license applications for new earth stations, major amendments to pending earth station facilities applications,¹ or

¹ See 47 CFR 25.116(b)(1),(4). Major amendments resulting from ownership changes or arising under our environmental processing rule may still be filed and will be accepted. See 47 CFR 25.116(b)(2),(3).

applications for major modifications to existing earth station facilities² filed on or after December 18, 1998, the release date of the *Notice of Proposed Rule Making and Order* will not be accepted. The imposition of this interim change in application processing is procedural in nature and, therefore, not subject to the notice and comment and effective date requirements of the Administrative Procedure Act ("APA"). In addition, we find good cause for imposing immediately this processing change without following these APA requirements because the changes are necessary to preserve the status quo availability of the spectrum for terrestrial wireless services pending the Commission's ultimate determination in this proceeding.³ Also, in order to permanently implement this action, we propose to add to the United States Table of Frequency Allocations a new non-Government footnote, which would read as follows:

In the 3650–3700 MHz band and for the fixed-satellite service (space-to-Earth), license applications for new earth stations, major amendments to pending earth station facilities applications, or applications for major modifications to existing earth station facilities filed on or after December 18, 1998 shall not be accepted.

We request comment on this proposal, including on how it affects the ability of FSS licensees to satisfy the demand for international intercontinental downlink capacity in this region of the spectrum. In addition, we seek comment on alternative methods to meet the terrestrial fixed service's needs in the 3650–3700 MHz band while minimizing the effect on FSS operations. Commenters should provide detailed supporting engineering data and analysis in support of their positions.

11. We also seek comment on whether the FSS allocation in the band should be deleted. If so, we seek comment on whether we should propose to grandfather the existing earth stations operating in the band, or allow new fixed service licensees to have the right to require grandfathered earth stations to vacate the band, subject to reimbursement in a manner consistent with the Commission's *Emerging Technologies*, see ET Docket No. 92–9, *First Report and Order and Third Notice of Proposed Rulemaking*, 7 FCC Rcd 6886 (1992), 57 FR 49020, October 29, 1992, relocation policies, or whether, in any event, the allocation status of these earth stations should be changed to

secondary after a specified time period, for example, 10 years.

12. *Commercial Radar*. Also in order to preserve the availability of this spectrum for the proposed fixed service, we propose to delete the unused secondary non-Government radiolocation service allocation at 3650–3700 MHz. We note that there would remain 550 megahertz of secondary non-Government radiolocation service spectrum at 3100–3650 MHz, which we believe is adequate to accommodate current and future non-Government radiolocation services in this frequency range. Further, because we anticipate that the 3650–3700 MHz band is likely to be intensively utilized by the fixed service, deleting this radiolocation allocation would eliminate potential interference problems between these services. We seek comment on this proposal.

13. *Government Operations*. We propose to delete the Government radiolocation service allocation from the 3650–3700 MHz mixed-use band, except for grandfathering three Government radiolocation sites that would continue operations in the band. This proposal would be implemented by adding a new United States footnote to the Table of Frequency Allocations, which would read as follows:

In the 3650–3700 MHz band, after January 1, 1999, Government operations in the radiolocation service may continue on a primary basis at three sites: Pascagoula, Mississippi (30° 22' North Latitude, 88° 29' West Longitude); Pensacola, Florida (30° 21' 28" North Latitude, 87° 16' 26" West Longitude); and Saint Inigo, Maryland (38° 10' North Latitude, 76° 23' West Longitude). The Commission shall coordinate non-Government fixed stations within 80 kilometers of the grandfathered sites on a case-by-case basis with NTIA through the Frequency Assignment Subcommittee. Naval vessels shall not transmit in the 3650–3700 MHz band until the vessel is at least [distance to be determined]⁴ nautical miles off the coasts of the United States, Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

In addition, we propose to delete the unused Government aeronautical radionavigation service (ground-based) allocation from the band. We seek comment on these proposals.

C. Possibility of Land Mobile Use

14. We observe that in ITU Region 2 (the Americas) the 3650–3700 MHz band is also allocated to the mobile

except aeronautical mobile service on a primary basis. We have considered whether to propose domestic adoption of this allocation, i.e., an allocation in the United States for land mobile and maritime mobile uses, but not for aeronautical mobile use. We are aware of the difficulties of sharing spectrum between low-power FSS satellite signals and mobile units. Thus, the Commission has traditionally licensed satellite downlinks in bands that are not used by mobile units. Additionally, during the coordination process, NTIA indicated that mobile service operations within 80 kilometers of the three grandfathered sites should be prohibited in order to protect the low-level radar return signals. In this instant proceeding, we tentatively find that allocating the 3650–3700 MHz band to the fixed service only, and not to the land mobile service, would better protect incumbent Government radar operations and non-Government FSS reception from harmful interference. We request comment on this conclusion and, alternatively, on whether we should allocate the 3650–3700 MHz band to the land mobile service. Commenters supporting a land mobile service allocation should submit detailed supporting engineering data and analysis.

D. Receiver Standards

15. We decline to propose the transmitter emission and receiver selectivity standards that NTIA requested in the Final Report because we continue to believe that this matter is best left to market forces. Specifically, we believe that, by making the appropriate technical information available to manufacturers, they will, as a matter of course, take into account the electromagnetic environment when designing and building equipment for the 3650–3700 MHz band.⁵ This process, we believe, is most likely to encourage the development and implementation of innovative technology that will promote coexistence with high-powered in-band

² See 47 CFR 25.117. Modifications not requiring prior authorization pursuant to 47 CFR 25.118 would be unaffected.

³ See 5 U.S.C. 553 (b) and (d).

⁴ The Commission and NTIA are discussing this issue in the coordination process. We anticipate adopting the distance developed in the coordination process in the Report and Order in this proceeding.

⁵ We are working closely with NTIA to make available the information that potential non-Government licensees will need in order to evaluate the viability of new commercial services in the 3650–3700 MHz band. Specifically, we intend to obtain (1) the coordinates of those geographic areas that would be affected by Government systems (assuming signal line-of-sight propagation for an effective 4/3 Earth radius); and (2) the equipment operating characteristics of the Government systems, including the values of radar broadband transmit noise, the radar's e.i.r.p. and spectral characteristics of the e.i.r.p. as a function of frequency. Once NTIA has provided this information, Commission staff will plot the impacted areas and we will make this information available to the public.

and adjacent band Government radar operations. We request comment on our proposal.

E. RF Safety

16. With regard to RF safety requirements, we propose to treat stations operating in the 3650–3700 MHz band in a comparable manner to other services and devices that have similar operating characteristics. Sections 1.1307(b), 2.1091, and 2.1093 of our rules list the services and devices for which an environmental evaluation must be performed. Accordingly, we propose that an environmental evaluation for RF exposure would be required for the following operations: (1) Fixed stations and base stations (if land mobile operations are permitted) that have an e.i.r.p. greater than 1640 watts; and, (2) land mobile stations (if land mobile operations are permitted), including portable devices, that have operating characteristics or functions similar to cellular, PCS or “covered” SMR services, i.e., operations that are typified by long periods of use or are interconnected to the public switched telephone network. We invite comment on this proposal and welcome the submission of alternative proposals that would ensure public safety with respect to exposure to RF radiation.

17. Accordingly, *it is ordered* that, pursuant to sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r), the *Notice of Proposed Rule Making and Order* is adopted.

18. *It is further ordered* that, in the 3650–3700 MHz band and for the fixed-satellite service (space-to-Earth), license applications for new earth stations, major amendments to pending earth station applications, or applications for major modifications to existing earth station facilities filed on or after December 18, 1998 shall not be accepted.

19. *It is further ordered* that, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a), the Office of Public Affairs, Reference Operations Division, shall send a copy of the *Notice of Proposed Rule Making and Order*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Initial Regulatory Flexibility Analysis

20. As required by the Regulatory Flexibility Act (“RFA”),⁶ the

Commission has prepared an Initial Regulatory Flexibility Analysis (“IRFA”) of the possible significant economic impact on small entities by the policies and rules proposed in the *Notice of Proposed Rule Making and Order* (ET Docket No. 98–237). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this *Notice of Proposed Rule Making and Order*. The Office of Public Affairs, Reference Operations Division, shall send a copy of the *Notice of Proposed Rule Making and Order*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). The *Notice of Proposed Rule Making and Order* and the IRFA will be published in the **Federal Register**.

Need for and Objectives of the Proposed Rules

21. This Notice proposes to allocate the 3650–3700 MHz band to the fixed service on a primary basis. We take this action on our own initiative in order to make this transfer spectrum available for commercial services. The adoption of this proposal would accommodate growing demand for fixed services.

Legal Basis

22. This action is taken pursuant to sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

23. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁷ For the purposes of this Notice, the IRFA defines a “small business” to be the same as a “small business concern” under the Small Business Act,⁸ unless the Commission has developed one or more definitions that are appropriate to its activities.⁹ Under the Small Business Act, a “small business concern” is one that: (1) is independently owned and operated; (2) is not dominant in its field

of operation; and (3) meets any additional criteria established by the Small Business Administration (“SBA”).¹⁰

24. The Commission has not developed a definition of small entities applicable to Fixed Satellite Service licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications services, Not Elsewhere Classified. This definition provides that a small entity is one with no more than \$11.0 million in annual receipts.¹¹ According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported annual receipts of \$11 million or less and qualify as small entities.¹² We note that new services will be permitted under the adopted designations for FSS, and we are unable at this time to provide a more precise estimate of how many potential small entities will be providing these services.

25. As described, the designations we hereby adopt will permit wireless services, as broadly defined. Neither the Commission nor the SBA has developed a definition of small entities applicable to wireless services licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.¹³ According to the Bureau of the Census, only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.¹⁴ We note that new services will be permitted under the adopted designations for wireless services, and we are unable at this time to provide a more precise estimate of how many potential small entities will be providing these services.

26. The Commission has not yet determined or proposed how many licenses will be awarded, nor will it know how many licensees will be small businesses until the auction, if required, is held. Even after that, the Commission will not know how many licensees will partition their license areas or

¹⁰ 15 U.S.C. 632.

¹¹ 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

¹² U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S-1, Subject Series, Establishment and Firm Size, Table 2D, Employment Size of Firms, 1992, SIC Code 4899 (issued May 1995).

¹³ 13 CFR 121.201, SIC code 4812.

¹⁴ 1992 Census, Series UC92-S-1, at Table 5, SIC code 4812.

⁶ See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Contract With

America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (“CWAAA”) Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFRA”).

⁷ *Id.* § 601(6).

⁸ 15 U.S.C. 632.

⁹ See 5 U.S.C. 601(3) (incorporating by reference the definition of “small business concern” in 5 U.S.C. 632).

disaggregate their spectrum blocks, if partitioning and disaggregation are allowed. This proceeding proposes only to allocate the 3650–3700 MHz band to the non-Government fixed service generally. A future proceeding will address service rules specifically, and we will address small business concerns at that time. We invite comment on this analysis.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

27. Rules that may apply to the licensing of these operations or other operating requirements will likely be addressed in a separate rule making proceeding and any reporting, recordkeeping and other compliance requirements will be addressed therein.

Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives

28. No Petitions for Rulemaking were filed to initiate this proceeding and there are no comments in this proceeding that suggest alternatives to this proposed allocation and associated technical requirements. We request comment on alternatives that might minimize the amount of economic impact on small entities.

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

29. None.

List of Subjects in 47 CFR Part 2

Communications equipment, reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

[FR Doc. 99–837 Filed 1–13–99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 010599A]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will be held on Wednesday, January 27, 1999, at 9:30 a.m. and on Thursday, January 28, 1999, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Harborside Portsmouth, 250 Market Street, Portsmouth, NH 03801; telephone (603) 431–2300. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Wednesday, January 27, 1999

The meeting will begin with reports on recent activities from the Council Chairman; the Executive Director; the NMFS Acting Regional Administrator, Northeast Region; Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons; and representatives of the Coast Guard, the Atlantic States Marine Fisheries Commission, and the U.S. Fish and Wildlife Service. Following reports, the Chairman of the Whiting Committee will ask for approval of descriptions of measures and the summary of impacts for final submission of Amendment 12 to the Fishery Management Plan (FMP) for the Northeast Multispecies Fishery. Following the Scientific and Statistical Committee's review, the Dogfish Committee will seek approval of an overfishing definition, of a stock rebuilding schedule, and of the Spiny Dogfish FMP for submission to the Secretary of Commerce.

During the afternoon session, the Council will continue its discussion on dogfish and possible approval of a recommendation for emergency or interim action to become effective by May 1, 1999. The Social Sciences Advisory Committee will report on recommendations on information to be included in the Stock Assessment and Fishery Evaluation reports and the social and economic impacts analyses included in the Council FMPs. There

will be a Stock Assessment Public Review Workshop on the status of Cape Cod yellowtail flounder, white hake, Georges Bank winter flounder, American plaice and Southern New England/mid-Atlantic winter flounder.

Thursday, January 28, 1999

The Council will take final action on Framework Adjustment 27 to the Northeast Multispecies FMP. Management measures in Framework Adjustment 27 would reduce fishing mortality on Gulf of Maine cod and Georges Bank cod to achieve the 1999 fishing year rebuilding objectives and might include area closures, trip limits, adjustments to days-at-sea, or gear/mesh modifications. During the afternoon session, the Groundfish Multispecies Committee will consider recommendations on priorities for Council action during 1999 to address latent fishing effort/permits, employment of displaced fishermen in scientific/gear research programs under economic assistance programs, changing the annual Northeast Multispecies FMP adjustment schedule to a calendar year, and/or other measures to address overfishing of identified stocks. The Council also intends to approve initial action on a framework adjustment to the Northeast Multispecies FMP that would adjust regulations to comply with the Harbor Porpoise Take Reduction Plan. Discussion of any other business will take place before the close of the meeting.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 8, 1999.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries.

[FR Doc. 99–840 Filed 1–13–99; 8:45 am]

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