

## Federalism

The Coast Guard has analyzed this proposal under the principals and criteria contained in Executive Order 12612, and it has been determined that this proposal will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

## Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement and checklist has been prepared and placed in the rulemaking docket.

## List of Subjects in 33 CFR Part 117

Bridges.

## Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations to read as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. In § 117.997, paragraph (g) is redesignated as (h) and a new paragraph (g) is added to read as follows:

**§ 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal.**

\* \* \* \* \*

(g) The draw of the Albemarle & Chesapeake Railroad bridge, mile 13.9, in Chesapeake, Virginia, shall be maintained in the open position; the draw may close only for the crossing of trains and maintenance of the bridge. When the draw is closed, a bridgetender shall be present to reopen the draw after the train has cleared the bridge.

\* \* \* \* \*

Dated: January 20, 1995.

**M.K. Cain,**

*Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.*

[FR Doc. 95-6032 Filed 3-10-95; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[ET Docket No. 93-266; FCC 95-80]

### Pioneer's Preference Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** By this *Further Notice of Proposed Rule Making*, the Commission proposes rules in response to the pioneer's preference directives contained in the legislation implementing domestically the General Agreement on Tariffs and Trade (GATT), as well as on its own motion. The objective of this proposal is to implement the GATT legislation's modifications to the Communications Act and to make additional changes to the pioneer's preference rules to increase their efficiency.

**DATES:** Comments are due March 29, 1995; reply comments are due April 12, 1995.

**FOR FURTHER INFORMATION CONTACT:** Rodney Small, Office of Engineering and Technology, (202) 776-1622.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Further Notice of Proposed Rule Making*, adopted February 28, 1995, and released March 1, 1995. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, D.C. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street NW., Suite 140, Washington, D.C. 20037.

### Summary of Further Notice of Proposed Rule Making

1. In the *Notice of Proposed Rule Making (Notice)* in this proceeding, 58 FR 57578 (October 26, 1993), the Commission sought comment on whether and how the pioneer's preference rules could be amended to take into account competitive bidding and its experience administering them, or whether these rules should be repealed. In the *First Report and Order*, 59 FR 8413 (February 22, 1994), the Commission determined that it would not apply amendments to its rules to three proceedings in which tentative pioneer's preference decisions had been issued; and in the *Second Report and Order*, adopted simultaneously with the

*Further Notice of Proposed Rule Making*, modified certain rules to increase the efficiency of the pioneer's preference program.

2. The GATT legislation, enacted December 8, 1994, requires that the Commission complete by June 8, 1995, a rulemaking prescribing the procedures and criteria to be used in evaluating pioneer's preference requests accepted for filing after September 1, 1994. The legislation mandates that the Commission specify the procedures and criteria by which the significance of a pioneering contribution will be determined; that there be an opportunity for review and verification of the contribution by experts not employed by the Commission; and that the Commission use such other procedures as may be necessary to prevent unjust enrichment by ensuring that the value of a pioneering contribution justifies any reduction in the amounts paid for comparable licenses. The GATT legislation also requires pioneer's preference licensees whose preference requests were accepted for filing after September 1, 1994 to pay in a lump sum or in installment payments over a period of not more than five years 85 percent of the average price paid for comparable licenses. Finally, the GATT legislation sunsets the pioneer's preference program on September 30, 1998.

3. In the *Further Notice of Proposed Rule Making*, the Commission proposes to establish a peer review process on a permanent basis under the direction of the Chief of its Office of Engineering and Technology. The Chief, OET, would select a panel of experts consisting of persons who are knowledgeable about the specific technology set forth in a pioneer's preference request and who are not employed by either the Commission or any applicant seeking a pioneer's preference in the same or similar communications service. The Commission's staff would evaluate on a case-by-case basis how much outside assistance is required.

4. With respect to the unjust enrichment directive of the GATT legislation, the Commission stated that its concerns about unjust enrichment are lessened by the statutorily-mandated payment requirement for pioneer's preference grantees in auctionable services and the formula for calculating per capita bid amounts, but that it remains concerned about the effect of competitive bidding on the pioneer's preference program. It said that in services in which competitive bidding is used to assign licenses, the need to guarantee a license may not be as strong as in services in which another

assignment method is used, and noted that there may be circumstances in which the guarantee of a license at or close to the market price may stimulate research such that the innovator receives certainty in obtaining financing to perform the necessary research and to pay for the license.

5. Accordingly, the Commission seeks comment on an additional showing that a pioneer's preference applicant would have to make to qualify for a preference in services in which licenses are awarded by competitive bidding. Specifically, it seeks comment on whether the applicant should have to demonstrate that the Commission's public rulemaking process inhibits the applicant from capturing the economic rewards of its innovation unless granted a pioneer's preference license; *i.e.*, whether the applicant must show that it may lose its intellectual property protection because of this public process. If this requirement were to be adopted, the applicant would have to demonstrate that it would be able to capture the rewards from its innovation only by being granted a guaranteed license.

6. With regard to determining which licenses are most reasonably comparable for purposes of the GATT legislation payment formula, the Commission proposes implementing this provision of the legislation on a case-by-case basis. However, it seeks comment on any standards for comparing licenses and excluding anomalous licenses, as well as comment on whether eligibility for installment payments should be limited to small businesses or other entities as has been done under the general auction rules.

7. In accord with the GATT legislation, the Commission proposes to sunset the pioneer's preference program on September 30, 1998. It also proposes to modify the pioneer's preference rules by limiting the award of preferences to services in which a new allocation of spectrum is required. Finally, it proposes to apply any rules adopted in response to the *Further Notice of Proposed Rule Making* to all pioneer's preference requests granted after adoption of these rules, except in proceedings in which tentative decisions have been made. The Commission stated that it will not issue final decisions in pioneer's preference proceedings that have not reached the tentative decision stage until after it has issued a Third Report and Order regarding final rules that will apply to pending requests.

#### List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 95-6080 Filed 3-10-95; 8:45 am]

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#### DEPARTMENT OF DEFENSE

##### GENERAL SERVICES ADMINISTRATION

##### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**48 CFR Parts 2, 3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 36, 42, 44, 46, 47, 49, 52, and 53**

[FAR Case 94-790]

##### Federal Acquisition Regulation; Acquisition of Commercial Items

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Change of date for meeting on proposed rule.

**SUMMARY:** At 60 FR 11198; March 1, 1995, a proposed rule was issued pursuant to the Federal Acquisition Streamlining Act of 1994 (the Act) to implement the revised statutory authorities for the acquisition of commercial items and components by Federal Government agencies as well as contractors and subcontractors at all levels. Instead of meeting on the date given in that document, the FAR Council is rescheduling its public meeting at the GSA Auditorium in Washington, DC, for April 3, 1995.

The purpose of the meeting is to enable the public to present its views on the proposed rule, FAR case 94-790—Acquisition of Commercial Items, and to exchange ideas and opinions with respect to the implementation of the Act. Interested members of the public may obtain copies of the proposed rule from the FAR Secretariat, Room 4037, GSA Building, 18th and F Sts., NW, Washington, DC 20405, (202) 501-4755. The public is encouraged to attend this meeting and must provide, to the FAR Secretariat, a written statement on the views they would like to present not later than March 29, 1995. Organizations or groups with similar views should select a representative speaker.

**DATES:** The meeting will be held on April 3, 1995, at 1:00 p.m.

**ADDRESSES:** The meeting will be held at the GSA Auditorium, 8th & F Streets NW., First Floor, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward Loeb, Project Deputy for the Implementation of the Federal Acquisition Streamlining Act of 1994 at (202) 501-4547 or the FAR Secretariat, General Services Administration, (202) 501-0692.

Dated: March 7, 1995.

**Edward Loeb,**

*Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1994.*

[FR Doc. 95-5971 Filed 3-10-95; 8:45 am]

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#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

##### 50 CFR Part 17

##### Endangered and Threatened Wildlife and Plants; 90-Day Finding and Initiation of Status Review for a Petition To List the Southern Population of the Walleye as Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to list the southern population of walleye (*Stizostedion vitreum vitreum*) under the Endangered Species Act of 1973, as amended. The Service finds that the petition presents substantial information indicating that listing this species may be warranted. A status review is initiated.

**DATES:** The finding announced in this document was made on January 26, 1995. Comments and materials should be submitted to the Service by May 12, 1995, to be considered in the 12-month finding.

**ADDRESSES:** Data, information, comments, or questions concerning this petition should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, Jackson Field Office, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Paul Hartfield, Biologist, at above address (601-695-4900, ext. 25).