The NPRM

The impetus in proposing the NPRM was the goal, as stated in the Action Plan, to ''review the allocation of responsibilities for the selection and installation of warning devices and the potential for uniform nationwide standards.'' The NPRM, together with the subsequent hearings and wide range of comments stimulated extensive discussion and debate on the issue. FRA notes that certain groups generated interest and comments by claiming that the proposed rule ''would shield railroad companies from liability when their negligence contributes to such accidents.'' This and similar claims made in mass mailings to FRA are clearly misleading statements. FRA believes that there are valid policy arguments on both sides of the issue in this debate and that resorting to misleading statements apparently in order to increase the volume of comments does not lead to helpful public airing of legitimate concerns. Spreading such obvious misinformation can only take advantage of well meaning individuals who have not had the opportunity to read the proposed rule themselves, but who rely on the integrity and accuracy of those providing the information. FRA is disappointed that such groups apparently felt that the strength of their legitimate objections to the rule were insufficient.

While some of the debate surrounding the proposal was based on incorrect information, much of the discussion raised valid questions regarding what should be the proper role of railroads, state and local governments, and the federal government in the selection and installation of grade crossing warning systems. The discussion remained on a general and conceptual level however. The overwhelming majority of comments were conclusory in nature and did not add hard data which could be helpful to FRA in its decision making. Opponents claimed that the rule would effectively shift tort liability from railroads to state and local governments. Opponents of the rule also stated that there was no evidence that money saved by railroads would be spent on grade crossing safety and that the rule would remove any incentive a railroad may have to participate in crossing safety programs. Rule proponents, on the other hand, claimed that safety would be enhanced by more rational grade crossing planning.

Absent from virtually all rule comments and testimony, however, were data supporting the conclusions drawn from the rule. In the NPRM, FRA stated that it ''believes that railroads have many powerful incentives to continue their longstanding policy of voluntarily providing matching funds for federally funded grade crossing projects, comment is sought concerning whether this proposal will affect the level of railroad participation in such projects.'' FRA again received only conclusory comments rather than data on past, present or projected levels of participation.

Termination of rulemaking

FRA continues to believe that the proper relationship between railroads and state and local governments in terms of selection and installation of warning systems is as proposed in the NPRM: railroad should furnish governmental authorities with sufficient information to enable those authorities to make rational selection and installation decisions. However, at this time, in light of the lack of supporting hard data in the record and the magnitude of other regulatory and program safety initiatives being undertaken by FRA, this rulemaking is being terminated.

We note that this rulemaking has been a worthwhile first step in addressing the issue of allocation of responsibility for the selection and installation of warning devices and the potential for uniform nationwide standards in this area. We are confident that further steps in addressing these issues will build upon the information and discussion generated by this proceeding.

In light of the foregoing, FRA is hereby terminating this rulemaking.

Issued in Washington, D.C. on August 5, 1997.

Jolene M. Molitoris,

Administrator.

[FR Doc. 97–20991 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1155

[STB Ex Parte No. 566]

Rail Service Continuation Subsidy Standards

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board) is proposing to remove regulations from the Code of Federal Regulations that concern standards for determining subsidies for the continuation of rail service to govern rail properties not transferred to Consolidated Rail Corporation (Conrail) under the Final System Plan pursuant to the Regional Rail Reorganization Act of 1973.

DATES: Comments are due on September 8, 1997.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. (TDD for the hearing impaired: (202) 565–1695.)

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (ICCTA), abolished the Interstate Commerce Commission (ICC or Commission) and established the Board. Section 204(a) of the ICCTA provides that ''[t]he Board shall promptly rescind all regulations established by the (ICC) that are based on provisions of law repealed and not substantively reenacted by this Act.''

The regulations at 49 CFR part 1155 concern subsidy standards for certain rail lines in the region encompassed by the Final System Plan, described *infra*, that otherwise are subject to abandonment or discontinuance. They are the forerunner to our current offer of financial assistance (OFA) procedures that are national in scope. These regulations are based, at least partially, on statutes that are still in effect. 45 U.S.C. 744 (c) and (d). Under the ICCTA, however, the Rail Services Planning Office (RSPO), the statutory body that developed the regulations, has been abolished. *See* repealed 49 U.S.C. 10361–64. Moreover, the Board has in place analogous OFA regulations providing national subsidy standards. 49 CFR 1152.27 and 1152 subpart D. Finally, the regional subsidy regime at 45 U.S.C. 744, which applies to ''rail service on rail properties of a railroad in reorganization,'' may be outdated and may apply only to a limited number of situations. Accordingly, we are instituting this proceeding to determine whether these regulations may be eliminated, or whether they have a continuing vitality and should be retained.

The 3R Act and Part 1155

The Regional Rail Reorganization Act of 1973, Pub. L. No. 93–236, 87 Stat. 985, 45 U.S.C. 701 *et seq.* (3R Act) created Conrail as a for-profit corporation to reorganize the bankrupt rail services in the Northeast and Midwest region.[1] The 3R Act provided

[1] ''Region'' is defined as ''the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois; the

for the development and ultimate approval by Congress of a Final System Plan (Plan) for the redesign of rail services in the region. Lines that could not be operated profitably and were not considered essential to the rail transportation system would not be included in the Plan. Section 304 of the 3R Act permitted the summary discontinuance of service over those lines without ICC approval if 60 days' notice is given and certain parties are notified. However, section 304(c)(2) of the 3R Act (codified at 45 U.S.C. 744(c)(2)(A)) stated that an abandonment or discontinuance could not be carried out if a shipper, or public authority, or any responsible person offers:

> * * * a rail service continuation subsidy which covers the difference between the revenue attributable to such rail properties and the avoidable costs of providing service on such properties plus a reasonable return on the value of such rail properties * * *.[2]

The use of the subsidy is limited to rail service and rail properties of a railroad in reorganization in the region. 45 U.S.C. 744(a).[3] Moreover, the subsidy must be made within 2 years of the effective date of the Plan[4] or within ''2 years after the date on which the final rail service continuation payment is received, whichever is later. * * *'' 45 U.S.C. 744(c)(1).

The 3R Act also created RSPO,[5] which was authorized to issue standards for defining the terms ''revenue attributable to rail properties,'' ''avoidable costs of providing service,'' and ''a reasonable return on the value'' found in section 304. Section 205(d)(3).[6] In response to this directive, regulations were issued at 49 CFR part 1125 on July 1, 1974 (39 FR 7182) and were revised on January 8, 1975 (40 FR 1624) in *Part 1125—Standards for Determining Rail Service Continuation Subsidies*, Ex Parte No. 293 (Sub-No. 2). The regulations, now codified in part 1155,[7] define the terms noted above (revenue attributable, avoidable costs, return on value) for determining the subsidy payment for the continuation of train service over lines not included in the Plan.

The regulations at part 1155 are quite detailed and are more than 30 pages long. They are largely self-executing with little role provided for the ICC. However, under 49 CFR 1155.3(a), a carrier giving notice of intent to discontinue service shall submit an ''Estimate of Subsidy Payment'' to, *inter alia*, RSPO. Under 49 CFR 1155.4(c), a party desiring an interpretation of the standards can file a petition with RSPO. Under § 1155.9, if the parties cannot agree on issues of net liquidation value or whether properties are used and useful, they can select a mutually acceptable arbitrator to arbitrate the dispute. If they cannot agree on an arbitrator, either party may submit the matter to the American Arbitration Association. The ICC was not directly involved in reviewing disputes.

Subsequent Legislation

Congress amended portions of the 3R Act and also added new sections when it enacted the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), Pub. L. 94–210, 90 Stat. 127. As relevant to this proceeding, the 4R Act made two significant changes: it enacted designated operator provisions and it enacted OFA provisions.

First, the 4R Act amended the 3R Act by adding a new section 45 U.S.C. 744(d), which specified that a ''designated operator'' would be the rail carrier conducting operations when a subsidizer guaranteed payment. The subsidy payment was now defined as:

> The difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties, together with a *reasonable management fee* as determined by the Office. (Emphasis supplied.)

Consequently, section 205(d)(6) of the 4R Act also directed RSPO to determine the term ''reasonable management fee.''[8] RSPO revised the regulations now found at 49 CFR 1155 on January 11, 1978, to define reasonable management fee. 43 FR 1692.

The second change under the 4R Act allowed an abandonment to be postponed for up to 6 months if a financially responsible person offered to purchase or subsidize the line. Section 802. In essence, the regional subsidy provision of 45 U.S.C. 744 was expanded to apply to all carriers. This provision was originally codified at 49 U.S.C. 1a(6)(a) and subsequently recodified without substantive change at 49 U.S.C. 10905.[9] *See Hayfield Northern R. Co., Inc v. Chicago and North Western Transp. Co.*, 467 U.S. 622, 628–29 (1984) (*Hayfield Northern*).

To implement these 4R Act provisions, the ICC and RSPO instituted a proceeding on a joint basis. In November 1976, the ICC promulgated regulations and issued an explanatory decision. *Abandonment of R. Lines & Discontinuance of Serv.*, 354 I.C.C. 253 (1976) and 354 I.C.C. 129 (1976). These regulations were predicated on the part 1155 regulations, although, due to factual and statutory differences, there were certain variations.[10] The financial assistance procedures were originally issued at 49 CFR 1121.38 and 1121,

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District of Columbia; and those portions of contiguous States in which are located rail properties owned or operated by railroads doing business in the aforementioned jurisdictions (as determined by [ICC] order. * * *'' 45 U.S.C. 702(17). In *Northeastern Railroad Investigation [-] Definition of the Midwest and Northeast Region*, Ex Parte No. 293, published in the **Federal Register** on January 28, 1974 (39 FR 3605), the ICC included in the region points in the St. Louis, MO and Louisville, KY Standard Metropolitan Statistical Areas and Manitowoc and Kewaunee, WI. *See Regional Rail Reorganization Act Cases*, 419 U.S. 102, 108 n.2 (1974).

[2] The current language in 45 U.S.C. 744(c)(2)(A) differs slightly, but it is substantively the same as the section 304(c)(2) language.

[3] A ''railroad in reorganization'' is defined at 45 U.S.C. 702(16) as a railroad which is subject to a bankruptcy proceeding and which has not been determined by a court to be reorganizable or not subject to reorganization pursuant to this chapter as prescribed in section 717(b) of this title. A ''bankruptcy proceeding'' includes a proceeding pursuant to section 77 of the Bankruptcy Act and an equity receivership or equivalent proceeding * * *.

[4] The Plan was submitted to Congress on July 26, 1975. It was approved when neither the House of Representatives nor the Senate objected to it. The Plan was formally approved in section 601(e) of the 4R Act, discussed *infra*.

[5] RSPO was established as ''an office in the Interstate Commerce Commission.'' Former 49 U.S.C. 10361. In resolving the issue of whether final orders or regulations of RSPO were to be considered orders or regulations of the ICC, the court held that ''[a]lthough Congress gave to the RSPO final administrative responsibility for certain determinations, we conclude that the RSPO is sufficiently part of the ICC so that its orders are to be considered orders of the ICC for purposes of the Hobbs Act.'' *Southeastern Pennsylvania Transp. Auth. v. I.C.C.*, 644 F.2d 238, 240, n.3 (3rd Cir. 1981).

[6] Section 205 was originally codified at 45 U.S.C. 715. In 1978, the Interstate Commerce Act was recodified without substantive change pursuant to Pub. L. No. 95–473, Oct. 17, 1978. While 45 U.S.C. 715 was repealed, the language of section 715 concerning RSPO was codified at 49 U.S.C. 10361–10364.

[7] The regulations were redesignated as part 1155 on November 1, 1982 (47 FR 49582).

[8] This requirement was subsequently codified at 49 U.S.C. 10362(b)(6). Section 744(d), however, still refers to section 205(d)(6).

[9] As described, *infra*, the OFA statute is now found at 49 U.S.C. 10904.

[10] In the notice of proposed rulemaking in *Abandonment of Railroad Lines and Discontinuance of Rail Service*, Ex Parte No. 274 (Sub-No.2), 41 FR 31878, 31882 (July 30, 1976), the ICC noted that it had already defined ''revenue attributable,'' ''avoidable costs,'' and ''reasonable return on the value,'' as those terms are used in the 3R Act. It stated that

> [b]ecause the same basic terminology is used in the (3R Act) and in the new abandonment and discontinuance provisions, the Commission believes that the Congressional intent is that the national standards should follow the conceptual approach of the regional standard promulgated by (RSPO) under the (3R Act). Consequently, the regional standards are being used to provide the foundation upon which the national standards will be based. However, there are several areas . . . in which the proposed rules differ from the regional standards.

subpart D, and are now found at 49 CFR 1152.27 and 1152, subpart D.[11]

The Staggers Rail Act of 1980, Pub. L. No. 96–448, 94 Stat. 1895, further revised section 10905. Section 402. The 6-month negotiating period was shortened and when a carrier and shipper could not agree to terms, the ICC would set, and the carrier was bound by, the purchase or subsidy price. *Hayfield Northern* at 630–31.[12]

The ICCTA was the final legislative action applicable to these regulations. There was no change to 45 U.S.C. 744(c). The changes to section 744(d) do not affect part 1155. The RSPO statutes—49 U.S.C. 10361–64—were repealed. Former 49 U.S.C. 10905 was changed and is now found at 49 U.S.C. 10904, but the changes there do not affect our analysis.[13]

Discussion and Conclusions

We are reexamining part 1155 because of the changes made by the ICCTA, the availability of our national subsidy standards, and the likelihood that few situations fall within the regional subsidy framework. We propose to remove these regulations.

As indicated, 45 U.S.C. 744 (c) and (d), which pertain to the subsidies for the continuation of rail freight service, have not been repealed. Nevertheless, the regulations at part 1155 implementing the statute were issued by an office (RSPO) that has been abolished by the ICCTA.[14] Further complicating matters is the fact that under 45 U.S.C. 744(d)(1), the defunct RSPO is to determine the terms a subsidizer is to pay a designated operator.[15] Moreover, under 45 U.S.C. 744(d)(2), the term reasonable return on value is to be developed according to the standards of 205(d)(6) of the 3R Act, which, as noted, was codified at the now repealed RSPO statute, 49 U.S.C. 10362.

We also question the need for two sets of subsidy regulations given the similarities between the regional and national standards.[16] Given that the role of the ICC in part 1155 was passive (RSPO was to issue interpretations of its standards and the parties were to arbitrate certain disputes), using the OFA standards for guidance in any regional subsidy situations that might arise may be sufficient. We seek comments as to whether this is in fact the case and the regional subsidy standards can be eliminated in light of the national standards, whether parts of the regional subsidy standards should be transferred to the national standards to the extent that they are still pertinent, or whether the regional subsidy standards should be maintained as currently codified.

Finally, there may be little, if any, need for the regulations. Under 45 U.S.C. 744(a)(1) and (c)(1), the regional subsidy program applies to a ''rail service on rail properties of a railroad in reorganization'' and is not available ''after 2 years from the effective date of the [Plan] or more than 2 years after the last rail service continuation payment is received, whichever is later. * * *'' We question whether there are any railroads in reorganization as defined by the statute. In *Consolidated Rail Corp.* v. *Reading Co.*, 654 F. Supp. 1318, 1323 (Sp. Ct. RRRA 1987), a case involving personal injury suits under the Federal Employer's Liability Act, the court stated that certain predecessor railroads of Conrail were not railroads in reorganization because they were no longer ''subject to a bankruptcy proceeding.'' These carriers had undergone reorganization, final consummation orders had been entered, and the carriers had been discharged in bankruptcy.[17]

If, on the other hand, there are still railroads in reorganization, or if the focus of section 744 is rail service and rail property, and not the status of the entity owning the property, we must still determine whether a regional subsidy qualifies under section 744(c). Because more than 20 years have passed since the effective date of the Plan, the issue also becomes whether any rail service continuation payments are still in effect or have expired within the last 2 years. As there might be some carriers in this situation, we seek comment on this issue.[18]

The Board preliminarily concludes that the proposed removal of the rules, if adopted, would not have a significant effect on a substantial number of small entities. The rules removal may be necessary in light of the ICCTA. Moreover, it appears that these rules do not apply to many (if any) situations and that there are other regulations which may be useful to potential parties interested in subsidizing the continuation of rail service. The Board, however, seeks comments on whether there would be effects on small entities that should be considered.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1155

Railroads, Uniform System of Accounts.

Decided: July 29, 1997.

[11] The 4R Act made other changes that, although not related to this proceeding, do concern a current Board proceeding with similar issues. Section 309 of the 4R Act amended section 205(d) of the 3R Act to require RSPO to develop standards for the computation of subsidies for the continuation of rail commuter services. RSPO issued the regulations on August 3, 1976, 41 FR 32546. These standards are now found at 49 CFR part 1157, subpart A (subsidy standards). By notice of proposed rulemaking served and published in the **Federal Register** on June 12, 1997 (62 FR 32068) in *Commuter Rail Service Continuation Subsidies and Discontinuance Notices,* STB Ex Parte No. 563, the Board proposed to remove from the Code of Federal Regulations the regulations at 49 CFR part 1157 concerning subsidy standards and also notices of the discontinuance of commuter rail service (subpart B).

[12] The Staggers Act modifications to section 10905 were designed to ''assist shippers who are sincerely interested in improving rail service, while . . . protecting carriers from protracted legal proceedings which are calculated merely to tediously extend the abandonment process.'' H.R. Conf. Rep. No. 96–1430, p. 125, (1980), U.S. Code Cong. & Admin. News. 1980, pp. 3978, 4157. *See Hayfield Northern* at 630, n. 8.

[13] Under section 10904, there are changes in time limits and the way OFAs are handled. However, when the Board is requested to establish the amount of a subsidy, the amount of compensation is ''the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line.'' 49 U.S.C. 10904(f)(1)(C).

[14] Under the regulations, that now-abolished office has continuing responsibilities (issuing interpretations, receiving estimates of subsidy payments).

[15] Section 744(d)(1) states that the terms ''revenue attributable,'' ''avoidable costs,'' and ''reasonable management fee'' are to be determined by ''the Office,'' defined at 45 U.S.C. 702(12) as RSPO.

[16] Prior to the promulgation of its OFA regulations, the ICC issued a notice of interim procedures for handling abandonment and discontinuance cases. It stated that it would ''adopt the same conceptual approach developed by (RSPO) in connection with the regional subsidy program authorized by the (3R Act) for the purposes of issuing the subsidy payment.'' *Chicago and North Western Transp. Co.-Abandonment,* 348 I.C.C. 445, 454 (1976). The ICC noted that there were statutory differences in two programs pertaining ''to the exclusion of a management fee in the national program, the inclusion of certain additional costs. . ., and the basis upon which a reasonable return is to be calculated.'' *Id.*

[17] The court noted (*Id.* at 1323, n.2) the following consummation dates: Erie Lackawanna, Inc. (November 30, 1982); Reading Co. (December 31, 1980); Penn Central Transportation Co. (October 24, 1978); Lehigh Valley Railroad Co. (September 1, 1982); and the Central of New Jersey (September 14, 1979).

[18] There is currently pending before the Board a proceeding in which relief is sought under 49 CFR Part 1155. *RailAmerica, Inc., and the Delaware Valley Railway Company, Petition to Set Subsidy Terms Under 45 U.S.C. 744(c) and 49 CFR part 1155,* STB Finance Docket No. 33285. In response to the petition, the Reading Company claims that the Board has no authority to set a subsidy because the Reading Company is not a ''railroad in reorganization.''

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

PART 1155 [REMOVED]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is proposed to be amended by removing part 1155.

[FR Doc. 97–20993 Filed 8–7–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 970725179–7179–01; I.D. 071497A]

RIN 0648–AK33

Taking and Importing Marine Mammals; Taking Ringed Seals Incidental to On-Ice Seismic Activities

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

ACTION: Advance notice of proposed rulemaking; receipt of a petition for regulations and an application for a small take exemption; request for comment and information.

SUMMARY: NMFS has received an application for renewal of a small take exemption and implementing regulations from BP Exploration (Alaska) (BPXA), on behalf of itself and several other oil exploration companies, for a small take of marine mammals incidental to winter seismic operations in the Beaufort Sea, Alaska. As a result of that application, NMFS is considering whether to propose regulations that would renew an authorization for the incidental taking of a small number of marine mammals. In order to decide whether to promulgate these regulations, NMFS must determine that the takings will have a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on the application and suggestions on the structure and content of regulations, if the application is accepted.

DATES: Comments and information must be postmarked no later than September 8, 1997.

ADDRESSES: Comments should be addressed to Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226. A copy of the application may be obtained by writing to the above address, or by telephoning one of the persons below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713–2055 or Brad Smith, Western Alaska Field Office, NMFS, (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking.

Summary of Application

On July 11, 1997, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from BPXA, on behalf of itself, ARCO Alaska, Inc., Northern Geophysical of America, Inc. and Western Geophysical Co. to renew the incidental take regulations found in 50 CFR part 216, subpart J, that govern the taking of ringed seals (*Phoca hispida*) incidental to seismic activities on the ice, offshore Alaska, for a period of 5 years. The applicants state that these activities are not likely to result in physical injuries to, and/or death of, any individual seals. Because seals are expected to avoid the immediate area around seismic operations, they are not expected to be subject to potential hearing damage from exposure to underwater or in-air sounds from the operations. Any takings of ringed seals are anticipated to result from short-term disturbance by noise and physical activity associated with the seismic operations.

The scope of the petition is limited to pre-lease and post-lease seismic exploration activities in state waters and the Outer Continental Shelf in the Beaufort Sea, offshore Alaska, during the ice-covered seasons. Operations are usually confined to January through May. These seismic surveys will be conducted using two types of energy sources: (1) Vibroseis, which uses large trucks with vibrators mounted on them, that systematically put variable frequency energy into the earth and (2) waterguns or airguns carried by a sleigh or other vehicle. Over the next 5-year period, the applicants expect that on-ice seismic activity will cover approximately 22,500 line miles (4,500 line miles/year). This compares to 13,247 line miles in the aggegate, during the past 5-year period.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning the application for a small take exemption and the structure and content of regulations if the application is accepted. NMFS will consider this information in determining whether to accept the application and, if so, in developing proposed regulations to authorize the taking. If NMFS proposes regulations to allow this take, interested parties will be given ample time and opportunity to comment.

Dated: August 4, 1997.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–20926 Filed 8-7-97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 073197B]

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, August 20, 1997, at 10 a.m., and on Thursday, August 21, 1997, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Colonial Hilton, 427 Walnut Street