(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-2252 Filed 1-28-82; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order Nos. 1473 and 1495]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) and Burlington Northern Railroad Co. and Fort Worth and Denver Railway Co. Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Decision.

SUMMARY: The Commission requested information on whether temporary service over lines of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island), under Section 122 of the Rock Island Railroad Transition and Employee Assistance Act (RITEA), should be terminated or permitted to continue, and on the compensation formula to be applied, if service continues, where Rock Island and operating carriers have not agreed on a compensation amount. This decision describes the results of our review of the information filed pursuant to that request.

DATE: This decision shall be effective on January 27, 1982.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION: By notice served September 21, 1981, (46 FR 47101, September 24, 1981), the Commission indicated its intent to consider whether, and for how long service over the Rock Island should be permitted to continue under the authority of Section 122 of the Rock Island Railroad Transition and Employee Assistance Act (RITEA) Pub. L. 96–254. Particularly to be considered were situations where there has been no clear effort to lease or purchase the Rock Island lines. The notice requested the Rock Island Trustee, the various carriers providing service under Service Order Nos. 1473 and 1495, and any interested person (particularly shippers and communities on the lines) to file comments or provide information and argument relating to the necessity and appropriateness of such service authority. It was directed that part of this showing include a detailed history, discussion, and status report on negotiations for the purchase or lease of Rock Island lines.

We consider the development of such information important, especially in light of a recent letter by the Rock Island Trustee to the Commission requesting that authorities for those carriers compensating the estate on the basis of the Frisco Formula (*St. Louis-S.F. Ry. Co.-Compensation-Chicago, R.I. & P.*, 363 I.C.C. 264) not be extended beyond September 30, 1981, and that future service authority be granted only to those carriers negotiating in good faith with the Trustee under interim lease agreements approved by the Court. The Trustee was directed to provide sufficient information on leases entered into with affected carriers and any other contracts to permit the Commission to consider whether we should continue to prescribe the *Frisco Formula* as the appropriate measure of compensation, in those cases in which the Trustee and the interim operator are unable to agree on compensation, if operating authority is continued.

The responses received to the notice were from a wide variety of interests; however, the statements received varied less widely. Shippers, affected communities, and states stressed almost without exception the urgent need for continued rail service during the bankruptcy process. The industries ranged from shippers of bulk agricultural commodities located in the grain-producing states to manufacturers located in the heavily industrialized areas surrounding Chicago. The impacts ranged from the loss of competitive advantage by the elimination of rail as a viable alternative mode to virtual shutdown due to the unacceptability of truck transportation as a viable alternative mode. One industry facing a shutdown is Pullman Standard, Inc., located near Chicago, which manufacturers high speed rail equipment for mass transit authorities. The shutdown of such an industry would mean the elimination of 1,500 jobs and the accompanying $45 million annual payroll.

Similarly, Congressional representatives urged continuation of essential services over Rock Island lines and reemphasized their interpretation of Section 122, describing the Commission's authority as plenary and the Congress' intention to be that such authority should continue during the bankruptcy process. Subsequent to the filings in this proceeding, the Congress amended Section 122, in the Record Carrier Competition Act, Pub. L. 97–130 (December 29, 1981), as follows:

Section 5, Amendment to other Law:

(a) Section 122(a) of the Rock Island Transition and Employee Assistance Act is amended by adding at the end thereof the following new sentence: "The Commission shall have authority to authorize continued rail service under this section over lines of the Rock Island Railroad until the disposition of the properties of the estate of the Rock Island Railroad."

(b) The applicability of the amendment made by subsection (a) to Interstate Commerce Commission Service Order 1498 shall expire at the end of May 15, 1982.

Moreover, the Senate Committee on Commerce, Science, and Transportation has reported favorably S. 1879, the Milwaukee Railroad and Rock Island Railroad Amendments Act, which would establish a procedure whereby a financially responsible person may resort to the Commission if its bona fide offer to purchase a rail line for continued rail use has been rejected by the Trustee. A similar bill, H.R. 5137, has been introduced in the House of Representatives.

Railroad responses reflected a general consensus that Section 122 authority is necessary, even though many have negotiated leases with the Trustee, and should be continued to permit purchase negotiations to continue. In most cases the railroads performing interim service indicated an interest in purchasing the properties being operated, and in several cases specific offers have been made to the Trustee. The Norfolk and Western (NW) and the Oklahoma, Kansas and Texas (OKKT) have each offered to purchase the line segments being operated and in each case the offers have been declined by the Trustee. The Cadillac and Lake City (CLK) and Southern Railway (SOU) have also made offers to the Trustee which have been declined for the purchase of terminal trackage in Colorado and at Memphis, Tennessee, respectively. The Milwaukee Road (MILW), Chicago and North Western (CNW), and the Missouri Pacific (MP) have indicated that negotiations are in progress, and the Chessie System has entered a fifty year lease with the Trustee to operate certain properties in Illinois. Burlington Northern (BN) has indicated an interest in certain line segments, not necessarily those currently being operated.

Presently there are numerous operations on the Rock Island under authority of Section 122, which represent varying levels of agreement and compensation. In our notice requesting information, we directed the Trustee to provide sufficient information on leases entered into with the affected carriers and any other contracts to make any necessary determinations where the Trustee and other carriers cannot agree. The Trustee's response to a limited extent described the criteria used for negotiating lease rates but failed to discuss in depth various compensation agreements now in effect between the Rock Island and various carriers and entities, the specific characteristics of each agreement, or how they were negotiated. There are 23 agreements with monthly payments ranging from $275 to $3,276 per mile. The Trustee does not explain the substantial differences in these rentals, nor does he provide sufficient information on the specific leases for us to be able to determine any systematic method used to calculate the rental payment. The Trustee states only that each agreement must be negotiated individually to reflect the special features attributed to the line segment involved, and that it is not possible for a single "per mile formula" or "flat rate" to be applied to all line segments. In addition to such items as width of right-of-way, land values, number of main tracks, benefits to the operator, and taxes, the Trustee indicates that consideration is given to the earning power of the line as a factor in computing compensation.

In essence, we believe the method used by the Trustee for computing rental and the *Frisco Formula* specified by the Commission are not substantially different. While the limited information presented by the Trustee has not made our job of determining compensation easier either here or in determining the *Frisco Formula*, his current disclosures have given some additional insight as to his methodology. The consideration of a line's earning power and property to be used seems to support clearly the Commission's determination that a two-part formula assures adequate compensation. It is possible that the earning power of a particular line where service has been sporadic would be less if based upon earning power in advance of operation as opposed to earnings generated through actual operation as provided by the percentage of net revenues. Moreover, the objective of this process is to provide the estate with adequate compensation during the interim operations pending actual liquidation of the properties. The Trustee, on the other hand, seems to have taken more of a final disposition approach to interim operations in seeking compensation as if it were intended to span a considerable length of time and to provide a substantial return on investment instead of to defray fixed costs and prevent diminution of the estate during liquidation. The Trustee's "triple net terms to the lessee of taxes, insurance, and maintenance" seem to be an indication of this approach. In addition to compensating the estate for the use of the property, lessees' under triple net terms would be responsible for paying property taxes, acquiring insurance, and maintaining the property operated.

Further, we do not find any substantial evidence to support the Trustee's contention that continued interim operations over Rock Island lines under Section 122 are impeding his efforts to liquidate the estate even though no plan has been filed or public statement made with respect to such liquidation. Furthermore, sales of major portions of the Trustee's rail properties do not appear to be negatively impacted by the operations authorized by the service orders and their extensions, when in fact these operations are preventing further deterioration of the estate and the commerce along the lines.

Short of dismantling, which in itself would eliminate continued rail use as one major form of liquidation, the Trustee has full facility to entertain or extend offers, carry on negotiations, and agree preliminarily to the sale of any line segment for continued rail or other use. Should interim operations be ongoing simultaneously, the only effects would be the maintenance of a stable traffic base which could be transferred to the new owner/operator, and compensation to the Trustee for otherwise idle property. Should the prospective purchaser intend other than continued rail use, then coordination by the Trustee in the form of thirty days' notice to the Commission would be sufficient to permit the wind down of rail operations and the placement of necessary embargoes. With that in mind, we do not believe that the present continuation of temporary authorities under Section 122 either impedes the trustee's efforts to liquidate or diminishes the estate, particularly when the majority of the operations are the subject of lease agreements with the trustee and contribute substantial compensation to the estate. It is our opinion that Section 122 authorities may be continued at least until a specific liquidation plan has been approved by the Commission or by the Bankruptcy Court, as appropriate.

Conclusion

In prescribing the basis upon which compensation to be paid to the Trustee of the Rock Island should be calculated, we continue to prefer a two-part formula. As stated in the *Frisco Formula* decision we believe the two-part compensation formula makes a reasonable accommodation of the opposing interests of the parties. The first part is established to provide a constant base compensation from which expenses accruing to the estate can be paid. The second part contemplates additional compensation to the Trustee based on revenues generated on the specific line segment.

Generally, the segments of Rock Island lines to which this formula would be applied are unconnected short segments with questionable viability. The longer, more viable segments are typically covered by leases or negotiated agreements and, as such, likely would not be the subject of an interim compensation formula.

In determining the first part of the formula, which sets the monthly mileage rate, we have analyzed the available information. In so doing, we have considered as criteria for the formula, the short-term nature of such arrangements to offset expenses to the estate during liquidation; the usually short, unconnected segments involved in the operations; and the untested contributions to the formula of percentage of net revenues derived from the operation.

The first part of the formula is set at $275 per mile per month, and is equal to the lease agreement with the Iowa Northern Railroad for a 43 mile segment in Iowa which includes Cedar Rapids. We feel this operation is representative of those which may be the subject of the interim compensation formula. The second part of the formula, which contemplates additional compensation to the Trustee through net revenues, will be set at the 14.4 percent *Frisco* level which was suggested by the Trustee as a reasonable rate of return.

We realize that the monthly mileage rental amount is less than other amounts negotiated by the Trustee; however, it presupposes net revenues in the absence of a showing to the contrary. In result, the formula should provide either a substantially improved return to the estate, or a means to terminate marginal operations with little or no prospective return.

In implementing this decision we will require that interim operators, utilizing this formula, report to the Commission and the Trustee simultaneously by the 15th day of each month on the traffic generated for the previous month. This report should include the number of cars loaded, the gross revenues generated on the line, and the expenses attributed solely to that operation. Any expenses attributed to overhead traffic, which that carrier may move over the Rock Island line, may not be used to reduce revenues and should be shown separately. This information will be used to evaluate the effectiveness of the formula in actual application. In the meantime, any party to the few situations in which resort to this formula is required because of inability of the parties to agree upon compensation may apply to us for reconsideration of the compensation provided, setting forth the details of the specific circumstances of their operation that warrant reconsideration.

We recognize that the Court overseeing the reorganization of the Rock Island has recently declared Service Order No. 1498 to be void and enjoined OKT from operating over lines of the Rock Island under the authority of that service order. We believe that decision, which is the subject of appeals by numerous parties including ourselves and the United States, should be deemed to be limited to the particular facts of the situation in which it arose. In all other circumstances, however, we believe the public interest in adequate and continuous transportation requires that we continue to exercise the authority granted to us by Section 122 of the RITEA and that our doing so is also in the best interests of the estate.

We find:

1. That continuation of interim authorities under Section 122 of the Rock Island Railroad Transition and Employee Assistance Act (P.L. 96–254) will not impede efforts of the Trustee or diminish the estate.

2. There is reason to reconsider the basis for computing compensation to be paid the Trustee in cases where the parties cannot agree.

3. That terms of compensation set forth in this decision are reasonable, based on the available information, and will accommodate the interest of the Rock Island and the public.

4. That reporting by interim operators utilizing the new formula is necessary to validate the formula's effectiveness, to verify the correctness of payments to the Trustee, and to permit us to modify the formula if warranted by a specific situation.

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

It is Ordered:

1. That interim authorities under Section 122 of the Rock Island Railroad Transition and Employee Assistance Act (Pub. L. 96–254) will be continued without interruption at least until the Trustee provides the Commission and the public with a definitive statement describing his plans for carrying out the Court ordered liquidation.

2. That the *Frisco Formula* is replaced by the *Rock Island Formula* of $275 per mile per month plus 14.4 percent of net revenues, and our prior orders which have prescribed the *Frisco Formula* are hereby modified to adopt this formula effective February 1, 1982.

3. That interim operators without agreements with the Trustee shall utilize this formula, unless upon a showing by any party of special circumstances some other formula is prescribed, and must report to the Commission and the Trustee simultaneously by the 15th day of each month on the traffic generated during the previous month. This reporting should include the number of cars loaded, the gross revenues generated on the line, and the expenses attributed solely to the interim operations. Any expenses incurred in handling overhead traffic which was not generated at points covered by this authority, and which the interim operator may move over the Rock Island line, must not be used to reduce revenues and should be shown separately.

4. This decision is effective on January 27, 1982.

A copy of this order shall be served upon the Association of American Railroads and each of the named respondents. Notice shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and publishing a copy in the **Federal Register.**

Dated: January 18, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

Respondents—Service Order No. 1473 and No. 1495, Notice of September 21, 1981

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Bob Dole, United States Senate, Washington, D.C. 20510
Ken Kramer, U.S. House of Representatives, Washington, D.C. 20515
Pat Roberts, U.S. House of Representatives, Washington, D.C. 20515
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Hardol Holtz, Chairman, Office of County Commissioners, Clay County, Clay Center, Kansas
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Fred W. Fielder—Petition (no address), President, The Northern Kansas Rail Association Company
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C. S. Grose, General Manager, The Logan Farmers Union Co-Operative Association, Logan, Kansas 67646
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Thomas D. Donis, Traffic Manager, Grain Processing Corporation, 1600 Oregon Street, Muscatine, Iowa 52761
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Thomas L. Vue, Stuttgart Grain Company, Stuttgart, Kansas 67670
Jake M. Rooney, Manager, Goodland Grain, Inc., P.O. Box 210, Goodland, Kansas 67735
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[FR Doc. 82-2331 Filed 1-82; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Parts 1201, 1206, 1207 and 1249

[No. 38709]

Disclosure of Long-Term Obligations; Adoption of Accounting Principles

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission is formally adopting generally accepted accounting principles related to the disclosure of certain long-term obligations. This includes commitments under unconditional purchase obligations that are associated with suppliers' financing arrangements and future payments on long-term borrowings and redeemable stock. The disclosure requirements are detailed in Financial Accounting Standards Board Statement No. 47, Disclosure of Long-Term Obligations (FASB Statement No. 47, March 1981). This rule eliminates carrier discretion in disclosing or not disclosing these obligations.

DATES: Effective for the reporting year beginning on or after January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Wayne D. Howard, Jr., (202) 275-7448.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 49 CFR 1200.2 on adoption of generally accepted accounting principles, the Bureau of Accounts issued Accounting Series Circular No. 191 on Disclosure of Long-Term Obligations (ASC 191, June 26, 1981). ASC 191 advises all carriers subject to the Commission's accounting regulations to disclose and quantify their commitments under unconditional purchase obligations associated with financing arrangements. Further, the circular requires disclosure of future payments on long-term borrowings and redeemable stock. These requirements incorporate FASB No. 47.

Review of Responses

Carriers and other interested parties had until August 10, 1981, to respond to ASC 191. The Bureau of Accounts received comments from one respondent: the Association of American Railroads (AAR), representing its member railroads. It agrees with the Commission's continued efforts to conform its accounting and reporting rules with generally accepted accounting principles.

However, the AAR states that if the Commission adopts FASB No. 47, the rule should refer to the statement refraining from further discussion and interpretation. The AAR maintains that FASB No. 47 already adequately presents the subject; paraphrasing its contents may alter or confuse the statement.

Discussion and Conclusions

The Financial Accounting Standards Board has issued FASB No. 47 as an interim measure pending further work on certain studies on conceptual framework for financial accounting and reporting. The statement ensures that at a minimum a business entity shall disclose project financing arrangements and other unconditional purchase obligations as well as future payments on long-term borrowings and redeemable stock. Previously, some business entities recognized these types of transactions as liabilities on the balance sheet; others ignored the transactions entirely. The statement does not substitute disclosure for appropriate accounting recognition, however.

ASC 191 summarizes FASB No. 47. We agree with the AAR's concern that confusion develops by paraphrasing a specific issuance of the Financial Accounting Standards Board. Accordingly, the adoption of FASB No. 47 is simplified by inserting in the uniform systems of accounts a reference to disclosing long-term obligation in accordance with generally accepted accounting principles. Carriers requiring additional clarification may submit accounting details to the Bureau of Accounts for interpretation.

For reporting purposes, minor revisions to the annual reports for Class I and Class II motor carriers of property (M) and Class I and Class II motor carriers of household goods (M-H) accommodate the new disclosure requirements. For Class I and Class II railroads, Annual Reports R-1 and R-2 provide for the disclosure of long-term obligations in Schedule 200, Comparative Statement of Financial Position—Explanatory Notes. The instructions require the disclosure of items "commonly disclosed under generally accepted accounting and reporting principles." For Class I motor carriers of passengers, Annual Report MP-1, Schedule 201, Comparative Balance Sheet Statement—Explanatory Notes, requires similar disclosure in Note 4.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that the requirements of the Regulatory Flexibility Act do not apply to this final rule since it will not have a significant impact on a substantial number of small businesses. This rule requires regulated carriers to disclose in the appropriate annual reports certain details related to long-term obligations in accordance with generally accepted accounting principles. This disclosure is an accepted accounting practice required by the Financial Accounting Standards Board; for Commission reporting, the carriers should not incur significant expense or unduly utilize other resources to comply with this disclosure requirement.

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

This action is taken under authority of 5 U.S.C. 553 and 49 U.S.C. 10321.

We adopt, in Appendix A of this document, the accounting changes to 49 CFR Parts 1201, 1206 and 1207 and in Appendix B the reporting changes to annual to reports described in 49 CFR Parts 1249.1 and 1249.2.[1]

Decided: January 19, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, and Clapp.

Agatha L. Mergenovich,

Secretary.

Appendix A

PART 1201—RAILROAD COMPANIES

1. Amend 49 CFR Part 1201, Subpart A as follows:

a. Under List of Instructions and Accounts, add Instruction 5-7, *Long-term obligations.*

b. Add Instruction 5-7, Long-term obligations:

5-7 Long-term obligations.

Commitments under unconditional purchase obligations associated with suppliers' financing arrangements and future payments on long-term borrowings and redeemable stock shall be disclosed in accordance with generally accepted accounting principles. Such disclosures shall not preclude accounting recognition if the substance of a financing arrangement is the acquisition of an asset or incurrence of a liability.

PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

2. Amend 49 CFR Part 1206 as detailed below:

a. In list of instructions, revise Instruction 2-18 heading, *Contingent assets and liabilities,* to read, *Disclosure of contingent assets and liabilities and long-term obligations.*

b. In Instruction 2-18, *Contingent assets and liabilities,* revise the title and text to read:

2-18 Disclosure of contingent assets and liabilities and long-term obligations.

(a) Contingency gains and losses shall be disclosed by footnotes to the balance sheet. This includes any arrears in cumulative dividends showing the amount per share of each class of stock and the facts and amounts related to any default in principal, interest or sinking fund provisions if not shown in the balance sheet accounts.

(b) Commitments under unconditional purchase obligations associated with suppliers' financing arrangements and future payments on long-term borrowings and redeemable stock shall be disclosed in accordance with generally accepted accounting principles. Such disclosures shall not preclude accounting recognition if the substance of a financing arrangement is the acquisition of an asset or incurrence of a liability.

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

3. Amend 49 CFR Part 1207 as shown below:

a. In list of instructions, amend Instruction 15 heading, *Contingent assets and liabilities,* to read, *15. Disclosure of contingent assets and liabilities and long-term obligations.*

b. In Instruction *15, Contingent assets and liabilities,* revise the title, designate the existing test as paragraph (a), and add paragraph (b) to read:

15. Disclosure of contingent assets and liabilities and long-term obligations.

(a) The balance sheet of . . .

* * * * *

(b) Commitments under unconditional purchase obligations associated with suppliers' financing arrangements and future payments on long-term borrowings and redeemable stock shall be disclosed in accordance with generally accepted accounting principles. Such disclosures shall not preclude accounting recognition if the substance of a financing arrangement is the acquisition of an asset or incurrence of a liability.

Appendix B

PART 1249—REPORTS OF MOTOR CARRIERS

Note.—Appendix B describing a change to Annual Reports M (Class I and Class II motor carriers of property) and M-H (Class I and II motor carriers of household goods) referred to in 49 CFR 1249.1 and 1249.2 is filed as part of the original document.

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BILLING CODE 7035-01-M

[1] Appendix B is filed as part of the original document.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Foreign Fishing, and Groundfish in the Bering Sea and Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This notice retroactively reapportions groundfish in the Bering Sea and Gulf of Alaska among domestic and foreign fishermen and processors. The reapportionment was a revision of the August 2 reapportionments required by regulation, and allowed the foreign and domestic fisheries to proceed without interruption to achieve optimum yield.

DATES: December 14, 1981, through December 31, 1981.

ADDRESS: The data upon which this rule is based are available for public inspection at the office of the Alaska Region, National Marine Fisheries Service, Room 453, Federal Building, 709 West 9th Street, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone (907) 586-7221.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields for various groundfish in 1981 were established by the preliminary fishery management plan (PMP) for the Trawl Fisheries and Herring Gillnet Fishery of the Bering Sea and Northeast Pacific Ocean (42 FR 9298, amended and by the fishery management plan (FMP) for Groundfish of the Gulf of Alaska (43 FR 17013), as amended). The optimum yields (OY) are apportioned initially to domestic annual harvest (DAH), reserve, and total allowable level of foreign fishing (TALFF). Thus, OY=DAH+reserve+TALFF. In turn, DAH is apportioned between domestic annual processing (DAP), joint venture processing (JVP), and domestic non-processed fish (DNP); thus, DAH=DAP+JVP+DNP. Under 50 CFR 611.93(b)(3) as it read during 1981, and under 611.92(c)(1), the Secretary of Commerce (Secretary) may reapportion DAH to TALFF, apportion the reserve to DAH or TALFF, and adjust the DAP, DNP, and JVP specifications within DAH.

In the scheduled August 2 reapportionment, reserves were apportioned to TALFF and DAH and reapportioned supplements of DAH were apportioned to TALFF (46 FR 44985). Adequate amounts were maintained in DAH to allow for uncertainties in the predicted catch by U.S. fishermen, including those engaged in joint ventures with foreign processing vessels. The Secretary reviewed the actual performance and lowered the estimate of U.S.-caught fish that would be delivered to foreign vessels and to domestic processors between August 2 and December 31. Due to the lengthy approval process required by Executive Order 12291, it was impossible to publish this rule before the end of the year.

For the record, only, this notice apportions to the 1981 TALFF additional amounts of DAH that were considered surplus to U.S. fishermen's needs. The Secretary took this action under 50 CFR 611.93(b)(3) and 611.92(c)(1) and 672.20(c).

Part 1. Bering Sea and Aleutian Islands

In November, U.S. fishermen were in the process of completing the one remaining joint venture with foreign processing vessels, and no further joint venture activity was anticipated in 1981. Therefore, the following amounts were deducted from the JVP portion of DAH and reapportioned to TALFF: Pollock—10,000 mt, yellowfin sole—8,000 mt, and Pacific cod—10,000 mt. Domestic harvest for domestic processing also was less than was anticipated. Therefore, the following amounts were deducted from the DAP portion of DAH and reapportioned to TALFF: Pollock—2,000 mt and yellowfin sole—1,000 mt.

Part 2. Gulf of Alaska

In November, no joint venture activity was expected in the Gulf of Alaska for the rest of 1981. Therefore, the following amounts of surplus pollock and Pacific cod in the JVP portion of DAH for the Central Gulf of Alaska were reapportioned to TALFF: pollock—5,000 mt and Pacific cod—1,000 mt.

The expected increase in the U.S. harvest of Pacific cod in the Central Gulf of Alaska was not as great as anticipated. The U.S. harvest of pollock in the Central Gulf of Alaska was also less than expected. Therefore, the following portions of the DAP for Pacific cod and pollock were reapportioned to TALFF: Pacific cod—3,000 mt and pollock—3,000 mt.

Administrative Procedure Act

In view of the previous opportunity for public comment on the August 2 apportionment and the need to avoid disrupting U.S. and foreign fisheries, the Secretary has determined that further notice and opportunity for public comment on this rule would be impracticable, unnecessary, and contrary to the public interest and that it should be effective January 29, 1982.

National Environmental Policy Act

Environmental impact statements were prepared on the PMP and FMP and are on file with the Environmental Protection Agency (EPA). Environmental assessments and negative determinations of significant environmental impact were prepared on the current regulations implementing the PMP and FMP, and are also on file with the EPA. As an integral feature of the management system established by the FMP, the PMP, and their implementing rules, this rule is not a separate major Federal action significantly affecting the quality of the human environment.

Classification

The Administrator, NOAA, has determined that this action is not a major rule under E.O. 12291 and, as such, does not require a regulatory impact analysis. A regulatory flexibility analysis is not required under the Regulatory Flexibility Act because the rule does not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. The rule, which is being published in final form, implements a provision in the regulations which allows the Secretary to make inseason reassessments of DAH and the need for reserves, and to reapportion to TALFF those amounts which he determines will not be harvested by vessels of the United States.

This rule does not contain a collection of information requirement, and does not involve any agency in conducting or sponsoring the collection of information (44 U.S.C. 3501 *et seq.*).

Promulgation of this rule does not constitute a Federal activity "directly affecting" the Alaska coastal zone within the meaning of section 307(c)(1) of the Coastal Zone Management Act of 1972.

The final figures for 1981 are shown in the following table.

For the reasons set forth in the preamble, 50 CFR Parts 611 and 672 are amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1821 and 1855.

2. In 611.20, Appendix I, entries 4.A and 4.E are amended to read as follows:

§ 611.20 Total allowable level of foreign fishing.

* * * * *

Appendix I—Optimum Yield (OY), Estimated Domestic Annual Harvest (DAH), Estimated Domestic Annual Processing (DAP), Joint Venture Processing (JVP), Domestic Non-Processed Fish (DNP), Reserve, and Total Allowable Level of Foreign Fishing (TALFF), All in Metric Tons. OY=DAH+Reserve+TALFF. DAH=DAP+DNP+JVP.

Species	Species code	Area	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
*	*	*	*	*	*	*			
4. Alaska fisheries									
A. Bering Sea and Aleutian Islands fishery:									
Pollock	701	Bering Sea	1,000,000	44,550	500	44,050		0	955,450
Yellowfin sole	720		117,000	17,200	200	17,000		0	99,800
Pacific cod	702		78,700	27,232	15,200	12,032		0	51,468

APPENDIX I—OPTIMUM YIELD (OY), ESTIMATED DOMESTIC ANNUAL HARVEST (DAH), ESTIMATED DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NON-PROCESSED FISH (DNP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF. DAH=DAP+DNP+JVP.—Continued

Species	Species code	Area	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
*	*	*	*	*	*	*			
E. Gulf of Alaska fishery:									
Pollock	701	Central	111,066	21,326	3,277	18,049		0	89,740
Total			196,933	26,293	4,117	22,176		0	170,640
Pacific cod	702	Central	39,130	3,058	1,060	598	1,400	0	36,072
Total			70,000	6,366	1,667	1,199	3,500	0	63,634
*	*	*	*	*	*	*			

PART 672—GROUNDFISH OF THE GULF OF ALASKA

3. The authority citation for Part 672 reads as follows:

Authority: 16 U.S.C. 1855.

4. In § 672.20, Table I is amended as follows:

§ 672.20 Optimum yield.

* * * * *

TABLE 1. OY, DAH, DAP, DNP, JVP, RESERVE, AND TALFF BY REGULATORY AREA

Species	Species code	Areas	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
Pollock	701	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
		Central	111,066	21,326	3,277	18,049		0	89,740
		* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Total			196,933	26,293	4,111	22,176		0	170,640
Pacific Cod	702	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
		Central	39,130	3,058	1,060	598	1,400	0	36,072
		* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Total			70,000	6,366	1,667	1,199	3,500	0	63,634
*	*	*	*	*	*	*			

(16 U.S.C. 1801 *et seq.*)

Dated: January 21, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-2291 Filed 1-28-82; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has given final approval to parts of Amendment 3 to the Fishery Management Plan for Surf Clam and Ocean Quahog Fisheries (FMP). The amendment extends the FMP indefinitely. The amendment contains management measures intended to allow the fisheries to attain optimum yield, to increase the operational flexibility of fishermen and processors, and to reduce the burden of management on the affected public. NOAA issues these final regulations to implement the amendment.

EFFECTIVE DATE: January 26, 1982.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Plan Coordinator; 617–281–3600.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. On October 24, 1981, the Secretary of Commerce implemented certain portions of Amendment 3 by promulgating emergency regulations (46 FR 53181). Comprehensive proposed regulations for Amendment 3 were published on November 25, 1981 (46 57707).

In preparing this amendment, the Council addressed a number of areas of concern while retaining the basic management framework established by the FMP. The Council made the management program consistent with current trends toward greater flexibility in resource management.

Optimum Yield for the Fisheries

The original FMP established annual levels of optimum yield (OY) for each fishery, U.S. capacity to harvest and process, and total allowable levels of foreign fishing (TALFF). The values were fixed and could not be changed without a plan amendment. This amendment establishes a flexible procedure which will allow the Regional Director, in consultation with the Council, to specify quotas on an annual basis from within a range which has been identified as OY. The Regional Director will consider stock assessments, catch records, and other relevant information concerning exploitable biomass and spawining biomass, fishing mortality rates, incoming recruitment, projected effort and catches, and areas likely to be reopened to fishing in his selection of a quota from the OY range. The quota will be adopted after the public has an opportunity to review and comment on the value selected. Notice of proposed 1982 quotas was published in the **Federal Register** on January 27, 1982.