Tennessee, in response to a petition filed by Peggy Ann Rothchild. The assignment could provide Cleveland with its first television service.

DATE: Effective: February 27, 1984.


FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Cleveland, Tennessee) MM Docket No. 83-361 RM-4336.

Adopted: December 12, 1983.

Revised: December 21, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the Notice of Proposed Rule Making. 48 FR 16921, published April 20, 1983, issued in response to a petition filed by Peggy Ann Rothchild ("petitioner"), proposing the assignment of UHF television Channel 53 to Cleveland, Tennessee, as that community's first television service. Supporting comments were filed by petitioner reiterating her intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Cleveland (population 26,415),1 is located in northeastern Tennessee, approximately 200 kilometers (125 miles) southeast of Nashville.

3. We believe the public interest would be served by assigning UHF television Channel 53 to Cleveland, since it could provide that community with its first television service. As indicated in the Notice, the assignment can be made to Cleveland in conformity with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules, provided the transmitter is located 9.7 miles southeast of Nashville.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606 [Amended]

§ 73.606 Amendment).

§ 73.606(b) of the Commission's Rules, is amended with regard to the community listed below, as follows:

<table>
<thead>
<tr>
<th>City</th>
<th>Channel No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cleveland, Tenn.</td>
<td>53</td>
</tr>
</tbody>
</table>

§ 73.606 [Amended]

5. It is further ordered, that this proceeding is terminated.

6. For further information, concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 84-35 Filed 1-3-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-355; RM-4305]

TV Broadcast Station in Fort Worth, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 52 to Fort Worth, Texas, as that community's fourth commercial television service, in response to a petition filed by Dennis H. Owen.

DATE: Effective: February 27, 1984.


FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Fort Worth, Texas) MM Docket No. 83-478; RM-4371.

Adopted: December 5, 1983.

Revised: December 21, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the Notice of Proposed Rule Making, 48 FR 16921, published April 20, 1983. In response to a request from Dennis H. Owen ("petitioner"), supporting comments were filed by petitioner reaffirming his intention to apply for the channel, if assigned. Additionally, comments were filed by Latin American Broadcasting Company ("LABC") advocating its support of the proposed assignment. No oppositions to the proposal were received.

2. Fort Worth (population 365,141),2 the seat of Tarrant County (population 860,860), is located in northeast Texas, approximately 50 kilometers (28 miles) west of Dallas. Currently, Fort Worth is served by commercial television stations KXAS (TV) (Channel 5+), KTVT (TV) (Channel 11—), KTXA (TV) (Channel 21—), and noncommercial educational Channel "31 (applications pending).

3. We find that the public interest would be served by assigning UHF television Channel 52 to Fort Worth as its fourth commercial television service. At set forth in the Notice, Channel 52 can be assigned to Fort Worth consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules provided it is offset 3 to avoid short spacing on the co-channel.

§ 73.606 [Amended]

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

<table>
<thead>
<tr>
<th>City</th>
<th>Channel No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fort Worth, Tex.</td>
<td>5+, 11—, 21-, *31+, and 52-</td>
</tr>
</tbody>
</table>

5. It is further ordered, that this proceeding is terminated.

1 Although petitioner initially requested the assignment of UHF television Channel 43 to Fort Worth, that proposal was short-spaced to the proposed assignment of Channel 58 to Dallas, Worth, Texas, as that community's fourth commercial television service, in response to a request from Dennis H. Owen ("petitioner"). Supporting comments were filed by petitioner reaffirming his intention to apply for the channel, if assigned. Additionally, comments were filed by Latin American Broadcasting Company ("LABC") advocating its support of the proposed assignment. No oppositions to the proposal were received.

2 Although the Notice proposed the assignment of Channel 52 with a plus offset to avoid short spacing to Station KSBF (TV), Oklahoma City, Oklahoma, it will be changed herein to avoid conflicting with another pending rule making proposing the assignment of Channel 52 - to Blanco, Texas (see MM Docket No. 83-478; RM-4371).
6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. Federal Communications Commission.

Roderick K. Porter,
Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-33 Filed 1-3-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-481; RM-4382]

TV Broadcast Station in Morton, Washington; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.


Roderick K. Porter,
Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-33 Filed 1-3-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-481; RM-4382]

TV Broadcast Station in Morton, Washington; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.


For further information contact: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Morton, Washington) MM Docket 83-481, RM-4382.

Adopted: December 5, 1983.

Released: December 21, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the Notice of Proposed Rule Making, 48 FR 27567, published June 16, 1983, which proposed the assignment of UHF Television Channel 39 to Morton, Washington, in response to a petition filed by The Daily Chronicle, Inc. ("petitioner"). The petitioner filed comments in support of the Notice and reaffirmed its interest in applying for the channel, if assigned. No opposing comments were received.


3. We believe that the petitioner has adequately demonstrated the need for a first commercial television assignment to Morton, Washington, and that the public interest would be served by assigning UHF Television Channel 39 to that community. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria of the Commission's Rules provided there is a site restriction of 1 mile north of the city to avoid short spacing to a construction permit on Channel 24 at Portland, Oregon.

Canadian concurrence has been received.

§ 73.606 [Amended]

4. Accordingly, pursuant to the authority contained in Section 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the community listed below:

<table>
<thead>
<tr>
<th>City</th>
<th>Channel No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morton, Wash.</td>
<td>39</td>
</tr>
</tbody>
</table>

5. It is further ordered, that this proceeding is terminated.


Roderick K. Porter,
Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-41 Filed 1-3-84; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 274 (Sub-No. 8)]

Exemption of Out of Service Rail Lines

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; partial granting of petition.

SUMMARY: At 48 FR 27547, June 16, 1983, the Commission issued a decision exempting railroad abandonments from the requirement or prior approval under 49 U.S.C. 10903-10905, where the lines have been out of service for at least 2 years, subject to certain conditions and standard labor protection provisions. Petitions to reopen the proceeding and rescind the rules at 49 CFR 1152.50 were filed. Those petitions are granted to the extent of narrowing the exemption to exclude those instances where a formal complaint has been filed by State or local government entities with regard to unanswered service requests. In all other respects the petitions are denied. The amended rule appears in the Appendix.

DATE: This action is effective on January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION:

List of Subjects in 49 CFR Part 1152

Railroads.

This action taken under 49 U.S.C. 10321 and 10505 and 5 U.S.C. 553.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to: T. S. InfoSystems, Inc., Interstate Commerce Commission, Room 2227, Washington, DC 20423, or call 202-4357 (DC metropolitan area) or toll free (800) 424-5405.

Decided: December 21, 1983.

By the Chairman, Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett did not participate.

James H. Bayne,
Acting Secretary.

Appendix

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1152—[AMENDED]

§ 1152.50 [Amended]

The first sentence of § 1152.50(b) is amended by adding the parenthetical expression "(or a State or local governmental entity acting on behalf of such user)" to follow the words "filed by a user or rail service on the line."

Revised as of January 4, 1984.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 31214-236]

Foreign Fishing: Groundfish of the Bering Sea and Aleutian Islands Area

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

SUMMARY: NOAA issues a final rule to implement Amendment 1 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The amendment (1) establishes a multi-year, multi-species optimum yield for the Bering Sea and Aleutian Islands area groundfish complex, (2) establishes a framework procedure for the determination and apportionment of amounts of groundfish specified for total allowable catch, domestic annual harvest, reserves, and total allowable level of foreign fishing, (3) modifies domestic restrictions in the Winter Halibut Savings Area and Bristol Bay Pot Sanctuary, (4) modifies foreign trawl restrictions in the area known as Petrel Bank, and (5) modifies certain appendices and annexes to the FMP. These management measures are necessary to provide the flexibility necessary for efficient management of the groundfish resource and the fishery and are intended to allow more timely implementation of management decisions made in response to the needs of the rapidly developing U.S. groundfish fishery and to changes in the condition of the groundfish resource.

EFFECTIVE DATE: January 1, 1984.

ADRESSES: Copies of the amendment, environmental impact statement, and the regulatory impact review/final regulatory flexibility analysis may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510; telephone 907-274-4563.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson (Regional Plan Coordinator), 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The FMP was implemented on January 1, 1982 (46 FR 32695, December 31, 1981), by the NOAA Assistance Administrator for Fisheries (Assistant Administrator) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Since then, five amendments to the FMP have been implemented. Amendment 1 to the FMP as adopted by the North Pacific Fishery Management Council (Council), on May 20, 1982, is the subject of this action. An earlier version of the amendment had been adopted by the Council in February 1981, but that version was later revised by the Council at its May 1982 meeting. The amendment makes the following changes to the management system prescribed in the FMP: (1) The current optimum yield (OY) specifications for individual groundfish species are replaced by a combined OY for the entire Bering Sea and Aleutian Islands area groundfish resource, or (2) a total allowable catch (TAC) specified annually for each target species and for the “other species” category; (2) a new system is established for the annual determination of domestic annual harvest (DAH), total allowable level of foreign fishing (TALFF), and reserves, and for apportionment of reserves to DAH and TALFF and of the DAH that will not be harvested by U.S. fishing vessels to TALFF; (3) domestic fishing restrictions stipulated in the FMP for the Bristol Bay Pot Sanctuary and the Winter Halibut Savings Area are changed to allow year-round fishing; (4) the January 1 through June 30 closure to foreign fishing between 3 and 12 miles from the baseline used to measure the U.S. Territorial Sea in Area “D” (known as the Petrel Bank) is changed so that all of Area D is closed to foreign fishing for the first 6 months of a calendar year; and (5) appendices and annexes to the FMP are revised to reflect changes made in the body of the FMP.

The preamble to the proposed rule (48 FR 41791, September 19, 1983) thoroughly discussed the need and justification of Amendment 1. It also discussed the procedures for the annual determination of TAC, DAH, and TALFF amounts for each target species and the “other species” category and for the reapportionment to TALFF of reserves and DAH amounts surplus to the needs of the U.S. fishing industry. Public comments on the proposed rule were invited until November 3, 1983. Seven comments were received from three individuals representing various sectors of the Japanese fishing industry. All comments received have been considered and are responded to below. After considering the comments, the Director of the National Marine Fisheries Service, Alaska Region (Regional Director), has decided to give final approval to Amendment 1.

The final rule incorporates four changes to the proposed regulations in response to public comment and Council clarification of its intent for the amendment. First, § 611.93 (c)(2)(i)(B) and (c)(2)(ii)(D) is changed to accommodate a comment submitted by the Council that clarifies the Council’s intent for the foreign trawl restriction in the Petrel Bank area. Currently, the area between 3 and 12 miles from the baseline used to measure the U.S. Territorial Sea in the Petrel Bank area is closed to foreign trawling from January 1 through June 30 to reduce the potential for gear conflicts with U.S. crab fishermen and to reduce the incidental mortality of crabs during spring months when the crabs are molting. The proposed regulations revised these restrictions so that the entire Petrel Bank area would be closed to foreign trawling from 7 days before the opening of the U.S. king crab fishery in the western Aleutian Islands area (currently November 10) through June 30. These revisions were proposed because (1) the U.S. king crab fishery extends beyond 12 miles in the Petrel Bank area, and (2) the opening of the king crab fishery is currently at an earlier date than that which is supported by the current restrictions on the foreign trawl fishery in the Petrel Bank area.

Protests to the Council by representatives for Japanese trawling interests on the proposed revisions to the Petrel Bank restrictions made evident to the Council that its intent for the Petrel Bank closure had not been made clear to the public. Also questioned was whether or not the extension of the time closure in the Petrel Bank area had ever been formally adopted by the Council. The Council therefore reaffirmed its intent to extend the Petrel Bank closure at its September 1983 meeting and after considering the present use of the area by U.S. crab fishermen and the need to protect molting crab in all of Petrel Bank, reaffirmed its intent to extend the Petrel Bank closure from between 3 and 12 miles to all of Petrel Bank. However, information and testimony from U.S. and Japanese fishery representatives confirmed that U.S. and foreign fishermen have been able to resolve any gear conflicts among themselves, and that the potential for gear conflicts is not considered a problem by U.S. crab fishermen using the Petrel Bank area. As a result, the Council affirmed that it did not wish to extend the closure of the Petrel Bank beyond the current 6-month closure of January 1 through June 30, and requested that the final rule be changed accordingly. Thus, § 611.93 (c)(2)(i)(B) and (c)(2)(ii)(D) of the final rule is changed to reflect that the entire Petrel Bank area is closed to foreign trawling from January 1 through June 30.

The second change in the regulations implementing Amendment 1 as reflected in the final rule involves § 675.20(a)(2)(ii) and addresses a clarification of the Council’s intent that socioeconomic factors will be considered when annual TACs are determined, when the reapportionment of reserves to a target species or the “other species” category will result in that species’ TAC being exceeded, and when surplus DAH is reapportioned to TALFF.
The third change to the proposed regulations involves § 675.20(a)(6) and (b) and the Federal Register notices addressed in these two paragraphs are rule-related notices.

The last change to the proposed regulations is in § 675.20(b)(2) and makes provisions for public notice and comment if reserves are to be retained for conservation reasons, or if surplus DAH is to be retained for conservation or socioeconomic reasons.

Public Comments

1. Comment: The changes to the foreign trawl closure set forth in the proposed rule should be revised to reflect the Council's intent for that closure as expressed at its September 1983 meeting.

Response: As noted above, the appropriate changes have been incorporated into the final rule.

2. Comment: The proposed extension of the six-month closure of the Petrel Bank from between 3 and 12 miles of the baseline used to measure the U.S. territorial sea to all of Petrel Bank should be disapproved, because it is in violation of the Magnuson Act, the Administrative Procedure Act (APA), and other applicable law for the following reasons: (1) Adequate notice was never given to the public that the proposed change was contemplated prior to the time the Council acted on Amendment 1; (2) this change was never a part of Amendment 1, as approved by the Council; (3) no supporting data or rationale were ever presented to either the Council or to the public on this proposed change prior to the adoption of Amendment 1 by the Council; and (4) no mention of this proposed change, much less discussion of it, occurred before the Council or its advisory bodies.

Response: In July 1978 and at the behest of the Japanese North Pacific Longline-Gillnet Association, a longline sanctuary concept was introduced into the draft FMP for Council consideration. The draft would have prohibited foreign trawling between 172° W. longitude and 179° E. longitude. Analysis of the potential impacts of the proposed sanctuary by the Council's Plan Development Team (PDT) indicated that, aside from the obvious benefits to longline fleets, the potential savings accrued through the reduced incidental trawl mortality of red and blue king crab in the sanctuary would have to be balanced against a potential loss of foreign groundfish production.

Representative for Japanese trawl interests (including the commenter) subsequently proposed a smaller alternative for a longline sanctuary (between 172° W. longitude and 179°30' W. longitude) to reduce the projected loss of foreign groundfish production. The PDT highlighted, however, that the smaller longline sanctuary would also reduce the projected savings of king crab. It suggested, therefore, that should the longline sanctuary be reduced in size as proposed by foreign trawl interests, then it might be necessary to consider specific closures to foreign trawling to protect both halibut and crab.

Several alternatives for Aleutian Islands area trawl closures and longline sanctuaries were presented to the Council and its advisory bodies at the May 1979 meeting, at which the commenter was present. It was moved before the Council that the alternative providing for (1) no foreign trawling year round in the proposed longline sanctuary between 172° W. longitude and 178°30' W. longitude and (2) no foreign trawling from January 1 through June 30 in the entire Petrel Bank be adopted. The motion was passed unanimously by the Council in order to provide for the foreign and domestic longline fisheries, to avoid gear conflicts during the conduct of the domestic king crab fishery, and to reduce the incidental mortality of king crab by foreign trawlers during those months when the crab are molting, making them particularly vulnerable to mortality from trawl gear.

Unfortunately, the Petrel Bank trawl closure as adopted by the Council was misspelled in the FMP, which stated that only that portion of the Petrel Bank between 3 and 12 miles would be closed to foreign trawling from January 1 through June 30. This language did not express the Council as voiced at the May 1979 meeting and did not conform to the Council's objective for the Petrel Bank closure of protecting crab stocks in all of Petrel Bank and reducing the potential for gear conflicts in the area. The subsequent drafts of revisions to section 14 of the FMP under Amendment 1 that were distributed for public review from April 1980 through March 1982 did reflect the Council's intent for the Petrel Bank closure and stated the foreign trawl closure applied to all of Petrel Bank and not just to that area between 3 and 12 miles. Although this change in the Petrel Bank trawl closure was not highlighted in staff summaries of Amendment 1, NOAA has determined that the public was given due notice of this action through its consistent inclusion in public review drafts of the amendment itself. The procedures followed by the Council when it adopted this change were consistent with the Magnuson Act, the APA, and other applicable law for the following reasons: (1) The Council deliberated before the public on the Petrel Bank closure in 1979; (2) the revised language closing all of Petrel Bank was in every Amendment 1 public review package since 1980 and a careful reading of the amendment by persons knowledgeable of foreign trawl restrictions should have identified to the reader the revisions being made; (3) the issues surrounding the Petrel Bank closure were reexamined by the Council at its September 1983 meeting and, after receiving public comment, the Council reaffirmed its intent to close all of Petrel Bank from January 1 through June 30 for the same reasons stated at its May 1979 meeting and (4) the public was provided a 75-day period in which to review and submit comments on Amendment 1 to the Secretary of Commerce through the NMFS Regional Director. NOAA has considered the comment questioning the Petrel Bank trawl closure and, after reviewing the history of this action and the opportunity for public input since 1979 on the proposed closure, does not find that this part of Amendment 1 warrants disapproval.

3. Comment: The upper end of the OY range established by the amendment should be set at a value which exceeds the upper end of the range established for the maximum sustainable yield (MSY). The fact that the upper limit of the OY range is set higher than the maximum range for MSY does not necessarily imply that the level of exploitation will ever exceed the MSY. However, an OY range which encompasses the MSY range will provide the flexibility necessary for managing the resource and the fishery in accordance with the OY provisions of the Magnuson Act and the goals and objectives of Amendment 1. Therefore, it is recommended that the upper limit of the OY range be conservatively increased to at least 2.5 million mt.

Response: The most recent biological information estimates the total 1984 equilibrium yield for target species and the "other species" category to be in excess of 2.2 million mt and the 1984 TAC for these species has been set at the maximum 2.0 million mt level allowed by Amendment 1. The Council may find it desirable to expand the 1.4-2.0 million mt OY range in view of the apparent health of the groundfish resource and to enhance management flexibility under the FMP. Such action, however, may be inconsistent with the conservative approach to groundfish management that the Council has found to be necessary in view of the available information on groundfish stocks. If an expansion of the OY range is found...
appropriate and necessary by the Council, such expansion would require a separate amendment to the FMP.

4. Comment: The portion of each species' TAC (15 percent) that is contributed towards the reserve should be reapportioned back to the respective species' TAC when reserves are released, unless there is evidence that the condition of any particular species requires a downward adjustment in its TAC.

Response: Amendment 1 does not contain any constraint on the reapportionment of reserves to a species unless a conservation problem exists or if a species TAC will be exceeded, in which case the reserve reapportionment must be consistent with various socioeconomic factors and must not result in overfishing. The intended use of reserves is to address unanticipated developments or adjustments in either the foreign or domestic fisheries. As such, the reapportionment of reserves to various species cannot be predicted except that all reapportionments must be consistent with the rule implementing Amendment 1. If no unexpected development of the domestic industry or condition of groundfish stocks arose and no operational problems developed in either the foreign or domestic fleets, the reapportionment of reserves to target species and the "other species" category would likely be such that the entire TAC for each species would be made available to the fishery.

5. Comment: In the event the Regional Director anticipates a retention of reserves for conservation reasons, some means of reasonable notice to the affected user groups in advance of a scheduled reserve apportionment would be desirable. The notice should also include a brief description of the biological information upon which the proposed retention is based.

Response: As noted above, the final rule makes provisions for public notice and comment if reserves are retained for conservation reasons.

6. Comment: The provisions of the proposed rule to authorize the retention of surplus DAH for socioeconomic reasons is inconsistent with the Magnuson Act because it may preclude the attainment of OY. Furthermore, the retention of surplus DAH for conservation reasons is not necessary because the Regional Director already has the authority to withhold reserves for conservation reasons.

Response: Amendment 1 defines the OY for the Bering Sea and Aleutian Islands area target species and the "other species" category as a range of 1.4 to 2.0 million mt to the extent that this amount can be harvested consistently with the rules implementing the FMP as amended, including the proposed rule for retention of surplus DAH for socioeconomic reasons. Thus, a proper DAH retention under that rule would necessarily lead to the attainment of OY, as so defined.

Unlike the reserve, surplus DAH is apportioned by species and is reapportioned to TALFF as such. Thus, if an inseason conservation problem did arise for a particular species, it would be much more effective to retain any surplus DAH for that species, rather than to retain a portion of the reserve, which could be reapportioned to other species in better biological condition.

The authority to retain surplus DAH if the reapportionment of those amounts to TALFF would have an adverse biological and/or conservation effect is set forth in Section 12.2 of the original FMP. The Council found it desirable to implement this provision of the FMP with the rule implementing Amendment 1, because the management flexibility inherent in the FMP provision enhances and augments similar types of provisions originating under Amendment 1.

7. Comment: Consideration of biological or socioeconomic factors every time surplus DAH is or is not reapportioned to TALFF is both redundant and cumbersome. Rather, socioeconomic and/or conservation factors should be considered only when a reapportionment of surplus DAH to TALFF would result in a harvest in excess of the TAC established for the species in question. In that event, the consideration of such factors would be entirely reasonable and consistent with the purpose of the amendment and the objectives of the Magnuson Act.

Response: Socioeconomic and biological conditions within various segments of the groundfish fishery may vary within a year. For that reason, NOAA has determined that implementation of the current provision in the FMP authorizing the retention of surplus DAH is necessary and appropriate if an adverse biological or socioeconomic effect on the U.S. industry would otherwise result from its reapportionment to TALFF.

Classification

The Regional Director has determined that Amendment 1 and this rule are necessary for the conservation and management of the Bering Sea and Aleutian Islands area groundfish fishery and that both are consistent with the Magnuson Act and other applicable law. The Council prepared a final environmental impact statement for this FMP and filed it with the Environmental Protection Agency on November 20, 1981; it addresses Amendment 1 and is available from the Council at the address set forth above.

The NOAA Administrator determined that this final rule is not "major rule" requiring a regulatory impact analysis under Executive Order 12291 because it will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises on domestic or export markets. This rule will have a significant beneficial economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act, and thus requires the preparation of a regulatory flexibility analysis.

These determinations are based on the regulatory impact review/final regulatory flexibility analysis (RIR/FRFA) set forth in Section 12.2 of the original FMP, the rule implementing Amendment 1, because the management flexibility necessary for the conservation and management of the Bering Sea and Aleutian Islands area groundfish fishery would not be made available to either the domestic or foreign fisheries. Implementation of Amendment 1 after that date would require midseason.
changes, causing confusion and
disruption within the groundfish
fisheries, and may preclude full
utilization of available groundfish
resources. Both the U.S. and foreign
fishing industries are aware of and
expect the implementation of
Amendment 1 by January 1, 1984. The
provisions of the final rule for notice
and comment on proposed TACs for
1984 are already being implemented, so
as to provide all interested parties with
the opportunity to comment on the rule’s
implementation for that year. No
purpose would be served by a delay in
the rule’s implementation.

List of Subjects
50 CFR Part 611
Fish, Fisheries, Foreign relations,
Reporting and recordkeeping
requirements.

50 CFR Part 675
Fish, Fisheries, Reporting and
recordkeeping requirements.

Dated: December 29, 1983.
Carmen J. Blondin,
Deputy Assistant Administrator for Fisheries
Resource Management, National Marine
Fisheries Service.

For the reasons set forth in the
preamble, 50 CFR Parts 611 and 675 are amended as follows:

PART 611—[AMENDED]
1. The authority citation for Part 611
reads as follows:
Authority: 16 U.S.C. 1801 et seq., unless
otherwise noted.

2. In § 611.93, paragraphs (a)(3),
(b)(1)(1), (b)(2), (b)(3)(ii)(A), and (c)(2)(i)
are revised, paragraph (c)(2)(ii)(D) is
redesignated as (c)(2)(ii)(E) and the
references to paragraph “(c)(2)(ii)(D)” in
paragraph (e) are changed to
“(c)(2)(ii)(E)”, and a new paragraph
(c)(2)(ii)(D) is added to read as follows:

§ 611.93 Bering Sea and Aleutian Islands
groundfish fishery.
(a) * * *
(3) The optimum yield for the fishery
regulated by this section and by 50 CFR
Part 675 is a range of 1.4 to 2.0 million mt
for target species and the “other
species” category in the management
area to the extent this amount can be
harvested consistently with this Part
and 50 CFR Part 675, plus the amounts of
“nonspecified species” taken
incidentally to the harvest of target
species and the “other species”
category. For a definition of the
categories of species involved in the
fishery, see Table 1 of this section.

(b) Authorized fishery. (1) See 50
CFR Part 675, Subpart B, for procedures
to determine total allowable catch
(TAC), reserve, domestic annual harvest
(DAH), and total allowable level of
foreign fishing (TALFF).

(2) For apportionment to TALFF of
Reserves and surplus DAH, see 50 CFR
Part 675, Subpart B.

(3) * * *
(ii) * * *
(A) Attainment of quota. If the amount
of “other species” or any target species,
except sablefish, turbots, or Pacific
cod, that is apportioned to the fishery
will be reached, the Secretary shall
release foreign trawling in all or part of
the management area until January 1. If
the amount of sablefish, turbots, or Pacific
cod that is apportioned to the fishery
will be reached, the Secretary shall
provide all foreign harvesting in all or
part of the management area until
January 1.

(c) * * *
(2) Trawling. (i) Trawling by foreign
vessels between 3 and 12 nautical miles
from the baseline used to measure the
territorial sea is allowed (A) at all times
in the area bounded by 170°00’ W. and
172°00’ W. longitude north of the
Aleutians. (B) on Petrel Bank from July 1
through December 31, and (C) from May
1 through December 31 in other areas
west of 178°30’ W. longitude. Petrel Bank
is bordered by straight lines connecting
the following coordinates in the order
listed:
Latitude
52°51’ N.
52°51’ N.
51°15’ N.
51°15’ N.
52°51’ N.

Longitude
178°30’ W.
179°00’ E.
179°00’ E.
178°30’ W.
178°30’ W.

PART 675—[AMENDED]
3. The authority citation for Part 675 is
revised to read as follows:
Authority: 16 U.S.C. 1801 et seq.

4. In § 675.20, paragraphs (a) and (b)
are revised, a new paragraph (d) is
added, and Table 1 is revised to read as
follows:

§ 675.20 General limitations.
(a) OY, TAC, Reserve, DAH, and
TALFF. (1) Optimum yield. The optimum
yield (OY) for the fishery regulated by
this section and by 50 CFR § 611.93 is a
range of 1.4 to 2.0 million mt for target
species and the “other species” category in
the Bering Sea and Aleutian Islands
management area, to the extent this
amount can be harvested consistently with
this Part and 50 CFR Part 675, plus the
amounts of “nonspecified species” taken
incidentally to the harvest of target
species and the “other species”
category. The species categories are
defined in Table 1 of this section.

TABLE 1.—CATEGORIES OF SPECIES INVOLVED IN THE BERING SEA AND ALEUTIAN ISLANDS GROUNDFISH FISHERY

<table>
<thead>
<tr>
<th>Unallocated species</th>
<th>Target species</th>
<th>Other species</th>
<th>Nonspecified</th>
<th>Groundfish</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salmoids, halibut, herring, king crab, Tanner crab, coral, shrimp, horsehair crab, brye crab, scallops, snails, dognose crab, surf clams.</td>
<td>Pollock, cod, other flatfishes, Alaska mackeral, sablefish, turbot, squid, Pacific ocean perch, other rockfish, yellowfish sole.</td>
<td>Scup, shiner, shad, eel, longnose smelt, capelin, octopus.</td>
<td>All species not included in previous categories.</td>
<td>Target, “other”, and nonspecified species.</td>
</tr>
</tbody>
</table>

1 Salmoids, Pacific halibut, Tanner crab, and any other unallocated species, the retention of which is prohibited by other applicable law, must be returned to the sea with a minimum of injury.

(2) TAC. The Secretary, after
consultation with the North Pacific
Fishery Management Council (Council),
will specify the total allowable catch
(TAC) for each calendar year for each
target species and for the “other
species” category. The sum of the TACs
established must be within the OY range
of 1.4 to 2.0 million mt for target species
and the “other species” category.

(i) The annual determination of the
TAC for each target species and the
“other species” category, the exceeding
of these species’ TACs through the
apportionment of reserves, and the
reapportionment of surplus domestic annual harvest (DAH) to total allowable level of fishing (TALFF) will be based upon and be consistent with two types of information:

(A) Biological condition of groundfish stocks as set forth in the resource assessment documents prepared annually for the Council. These documents will provide information on historical catch trend; updated estimates of the maximum sustainable yield of the groundfish complex and its component species groups; assessments of the stock condition of each target species and the "other species" category; assessments of the multi-species and ecosystem impacts of harvesting the groundfish complex at current levels given the assessed condition of stocks, including consideration of rebuilding depressed stocks; and alternative harvesting strategies and related effects on the commercial species group.

(B) Socioeconomic considerations that are consistent with the goals of the fishery management plan for the groundfish fishery of the Bering sea and Aleutian Islands area, including the need to promote efficiency in the utilization of fishery resources, including minimizing costs; the need to manage for the optimum marketable size of a species; the impact of groundfish harvests on prohibited species and the domestic target fisheries which utilize these species; the desire to enhance depleted stocks; the seasonal access to the domestic fishing fishery by domestic fishing vessels; the commercial importance of a fishery to local communities; the importance of a fishery to subsistence users; and the need to promote certain species.

(3) Reserve. Fifteen percent of the TAC for each target species and the "other species" category is automatically placed in a reserve, and the remaining 85 percent of the TAC for each target species and the "other species" category is apportioned between DAH and TALFF. The reserve is not designated by species or species group and any amount of the reserve may be apportioned to a target species or the "other species" category provided that such apportionments are consistent with paragraph (a)(2)(i) of this section and do not result in overfishing of a target species or the "other species" category.

(4) DAH. (i) The initial amounts for the two components of DAH, i.e., expected domestic annual processing (DAP) and U.S. harvest authorized for delivery to foreign processors (JVP), will be determined each year by the Regional Director. The DAP and JVP amounts for each target species and for the "other species" category equals the actual DAP and JVP of the previous year plus any additional amounts the Regional Director will be authorized to use by the U.S. fishing industry during the coming fishing year. This projection will be based upon the latest reliable information that is available, including industry surveys, market data, and stated intentions by representatives for the U.S. fishing industry. (ii) The DAH for the "nonspecified species" category equals the amount of that category caught during the fishing year while harvesting the DAH for the target species and "other species" categories.

(5) TALFF. The TALFF for each target species and for the "other species" category at the beginning of the fishing year is 85 percent of each TAC minus DAH. The TALFF for the "nonspecified species" category equals the amount caught during the fishing year while harvesting the TALFF for the target species and "other species" categories.

(6) Rule-related notice. As soon as is practicable after October 1 of each year, the Secretary, after consultation with the Council, shall publish a rule-related notice in the Federal Register specifying preliminary TAC, Reserve, DAP, JVP, and TALFF amounts for each target species and for the "other species" category for the next calendar year. Public comment on these amounts will be accepted by the Secretary for a period of 30 days after the amounts have been published in the Federal Register. The Secretary shall consider all timely comments when determining, after consultation with the Council, the final annual TAC, initial DAH, and initial TALFF for each target species and the "other species" category for the next year. These figures will be published as a rule-related notice in the Federal Register as soon as practicable after December 15 and made available to the public through other suitable means by the Regional Director.

(7) When the combined catch by foreign and U.S. vessels in the fishery or applicable sub-area of the fishery reaches the amount of a target species or the "other species" category that is apportioned to the fishery, further fishing by U.S. vessels that involves the taking of that species is prohibited in the management area or applicable sub-area for the remainder of the fishing year.

(b) Apportioning the reserve and surplus DAH—(1) Dates. (i) Reserve to DAH and TALFF. As soon as practicable after April 1, June 1, and August 1, and on such other dates as he determines appropriate, the Secretary shall by rule-related notice apportion to DAH and TALFF all or part of the reserve in accordance with paragraphs (a)(3) and (b)(2) of this section. The Secretary shall apportion to DAH the amount of reserve that he finds will be harvested by U.S. vessels during the remainder of the year and shall apportion to TALFF the remaining portion of the reserve that will not be apportioned to DAH, except that part or all of the reserve may be withheld if an apportionment would adversely affect the conservation of groundfish resources or prohibited species.

(ii) DAH to TALFF. As soon as practicable after April 1, June 1, and August 1, and on such other dates as he determines appropriate, the Secretary shall, by rule-related notice, reassess and reapportion to TALFF the part of DAH that he determines will not be harvested by U.S. vessels during the remainder of the fishing year, unless such reapportionments to TALFF would adversely affect the conservation of groundfish or prohibited species or would have an adverse impact on the socioeconomic considerations set forth in paragraph (a)(2)(ii) of this section. (2) Procedure. (i) The Secretary shall provide all interested persons an opportunity to comment on the proposed apportionments or retentions under paragraph (b)(1) of this section before such apportionments or retentions are made, unless he finds that there is good cause for not providing a prior comment opportunity, and publishes the reasons therefor in the rule-related notice of apportionment and/or retention. No apportionment or retention may take effect until it has been published in the Federal Register as a rule-related notice with a statement of the findings upon which the apportionment or retention is based. Comments provided for in this paragraph must be received by the Secretary not later than 5 days before April 1, June 1, and August 1, or other dates that may be specified. If the Secretary determines for good cause that a rule-related notice of apportionment and/or retention must be issued without providing interested persons a prior opportunity for public comment, comments on the apportionment or retention will be received for a period of 15 days after its effective date. The Secretary shall consider all timely comments in deciding whether to make a proposed apportionment or retention or to modify an apportionment or retention that has previously been made, and shall publish responses to those comments in the Federal Register as soon as practicable.

(ii) Comments provided for in paragraphs (a)(6) and (b)(2)(i) of this section should be addressed to Director,
Final regulations to implement the FMP for Atlantic mackerel, squid, and butterfish fisheries. The rule provides for additional flexibility in the annual specification of the optimum yields for squid and revises the estimated Atlantic mackerel natural mortality rate downward from 0.30 to 0.20 on the basis of recent scientific information. The regulations are intended to promote development and orderly operations of the U.S. fishery.

**Effective Date:** February 7, 1984, through March 31, 1986.

**Address:** Copies of Amendment 1 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries, the environmental assessment, and the regulatory impact review are available from the Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware, 19901-6790.

**For Further Information Contact:** Salvatore A. Testaverde, 617-281-3600, extension 273.

**Supplementary Information:** The Director, Northeast Region (RD), National Marine Fisheries Service (NMFS) has approved Amendment 1 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP). Amendment 3 to the FMP consolidated three separate plans for Atlantic mackerel, squid (*Illex* and *Loligo*), and butterfish into one management regime for a three-year period which ends on March 31, 1986. Final regulations to implement the FMP were published September 30, 1983 (48 FR 44933). Amendment 1, prepared by the Mid-Atlantic Fishery Management Council (Council), incorporates a more flexible mechanism to establish optimum yields (OY) for squid and changes the Atlantic mackerel natural mortality rate based upon recent scientific information.

The preamble to the proposed rule to implement Amendment 1 (48 FR 49077, October 24, 1983) provided a detailed discussion of the management measures. The procedure which sets squid annual specifications provides greater flexibility for proper management of this developing resource. The procedure allows adjustments to the OY because of changes in availability of squid; increases in total allowable foreign fishing (TALFF) to foreign nations providing markets for U.S. exports; joint venture operations and changes to approved joint ventures; or other benefits to the U.S. fishing industry. The procedure fosters the “fish and chips” policy and the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The adopting of the new natural mortality rate for Atlantic mackerel based upon the best scientific information available is consistent with National Standard 2: “Conservation and management measures shall be based upon the best scientific information available.”

The procedure which establishes the domestic annual harvest amount when the minimum spawning stock size exceeds 400,000 metric tons (mt) has confused some reviewers, who interpreted the formulation to set a minimum domestic annual harvest of 30,000 mt. This is not the case. There is no minimum amount for domestic annual harvest or domestic annual processing.

**Response to Public Comments**

Written comments were submitted by the Council, the Office of the United States Trade Representative (USTR), the National Fisheries Institute (NFI), the Association of Spanish Fishermen (ANAVAR), and the Japan Deep Sea Trawlers Association (JDSTA).

The Council’s comment was to notify NOAA that the council had voted at its November 1983 meeting to support the proposed regulations to implement Amendment 1 as published in the Federal Register.

Comment 1: The NFI comment focuses primarily on the offshore sales of squid, i.e., joint venture “over-the-side” transactions, stating that these sales compete both with the amount of squid landed shoreside by U.S. vessels and with domestic shoreside products in the world market. NFI does not suggest excluding all offshore sales of squid, but suggests that offshore sales of squid should be the exception, rather than the rule.

Response: The Magnuson Act provides that U.S. processors have first preference to the U.S. harvest of a species when they are able to and will utilize this harvest. At the present time, the domestic squid industry is evolving and domestic landings are increasing each year. Landings in 1983 may exceed 12,000 metric tons (mt), the greatest amount of squid landed along the Northwest Atlantic coast since fishery information began to be collected. This year’s squid catch, including catch for joint ventures, exceeded 21,000 mt, which is approximately one-third of the potential maximum total squid OYs available.

Based upon the Council’s survey of processors and past performance of the industry, NOAA will first assign the portion of U.S. squid harvest for domestic annual processing (DAP) and then consider joint venture applications.