a mistake. I also believe the Commission has a legitimate interest in the interoperability of various systems. While I do subscribe to the guideline that says mechanisms to ensure spectrum efficiency are a high regulatory priority, I do not believe that adequate incentives exist to use spectrum efficiency absent regulation.

I bow to the wishes of my colleagues to remove regulations which have proven to be unnecessary and burdensome. There are specific instances in this document where we may have gone too far but I believe they are sufficiently limited so as to permit the Commission to reimpose regulation in a timely fashion should that be necessary.

Therefore, I concur.

[FR Doc. 85-1324 Filed 1-16-85; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 76

[MM Docket No. 84-111; RM-4557; FCC 84-573]

Amendment of the Commission's Rules Regarding Major Television Markets to Include Melbourne and Cocoa, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the table of major television markets by including Melbourne and Cocoa, Florida in the Orlando-Daytona Beach, Florida hyphenated market in response to petitions for rule making filed by Southern Broadcasting Corporation and by Good Life Broadcasting, Inc., respectively.

EFFECTIVE DATE: February 19, 1985.

ADDRESS: Federal Communications Commission, Washington D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 76

Cable television.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 76.51, Major Television Markets. (Orlando-Daytona Beach, Melbourne, and Cocoa, FL); MM Docket No. 84-111 RM-4557.

Adopted: November 21, 1984.
Released: January 11, 1985.

By the Commission: Commissioners Quello and Dawson concurring in the result; Commissioner Rivera issuing a separate statement; Commissioner Patrick dissenting and issuing a statement. Both Commissioners issuing statements at a later date.

Introduction

1. The Commission has before it: (1) The *Notice of Proposed Rule Making* (49 FR 7414, published February 29, 1984) issued in response to a petition for rule making filed by Southern Broadcasting Corporation ("Southern") proposing to amend the list of Major Television Markets set forth in Section 76.51 of the Commission's cable television rules by adding Melbourne, Florida to the existing Orlando-Daytona Beach, Florida (#55) designate [1] and (2) the request of Good Life Broadcasting, Inc. ("Good Life") to add Cocoa, Florida to this designation. In response to the *Notice*, Southern submitted comments supporting its Melbourne proposal. American Television and Communications Corporation ("ATC"), Micro-Cable Communications Corp. ("Micro"), and Group W Cable, Inc. ("Group W") submitted opposition comments, to which Southern submitted a consolidated reply. Good Life supported the Melbourne proposal and proposed the addition of Cocoa.[2] Various pleadings were subsequently filed.[3]

[1] The Commission, by delegated authority, previously adopted a *Memorandum Opinion and Order*, released October 27, 1983, denying Southern's petition for rule making. The *Notice* was subsequently adopted in response to a petition for reconsideration filed by Southern.

[2] Good Life's comments in response to the *Notice* were filed subsequent to the comment deadline. Southern and ATC filed motions to strike Good Life's late-filed comments, in response to which Good Life filed a "Consolidated Opposition to Motions to Strike." Southern replied to the "Consolidated Opposition." Good Life submitted a "Motion to Consolidate" and "Petition for Rule Making," to which Southern and Group W submitted opposition comments. Since it appeared that the determination of whether to grant Good Life's proposal to add Cocoa involved similar issues to that of Southern's proposal to add Melbourne to the existing hyphenated market designation, the Commission issued an *Order* (49 FR 25254, published June 20, 1984) extending the time for filing comments and reply comments and inviting comments on Good Life's proposal.

[3] Good Life submitted a petition to file late comments supporting its Cocoa proposal. Micro requested leave to file late supplemental comments "in order to propose a solution to the (copyright) dilemma" should the Commission amend the existing market designation. Southern moved to strike Micro's late-filed comments, urging that Micro's copyright proposal is more appropriately dealt with in another proceeding. Micro submitted a pleading alternately opposing and replying to Southern's motion to strike. In light of the Commission's determination of the substantive issues raised in this proceeding, as set forth below, it is not necessary to consider the matters raised in these pleadings. Thus, we have not accepted these late filed pleadings.

Melbourne

2. Southern, licensee of television Station WMOD(TV), Melbourne, argues that, in establishing the major list, the Commission recognized that certain markets are characterized by more than one population center supporting all stations situated in the market but with different stations licensed to different communities. According to Southern, the major market list, the mandatory carriage provisions of the cable television rules, and the Commission's policy regarding hyphenated market designations are intended to enable all stations in a market to compete by providing them and their audiences with access to each other. Southern asserts that Orlando, Daytona Beach, and Melboune constitute a single market. In this regard, Southern notes that all Orlando and Daytona Beach stations place a Grade B signal over Melbourne and rely on that community for economic support and that WMOD(TV) derives "significant" revenue from communities other than Melbourne. Southern also notes that none of the major television networks have more than one affiliate in the market, that Arbitron has designated these three communities as one market, and that program distributors treat Melbourne as part of the Orlando-Daytona Beach market and charge accordingly. Further, Southern notes that the public, through its Congressmen, recognize these three communities as "an integrally connected social, political, and economic unit." Southern states that, despite covering all of Orlando and Melbourne with a Grade A signal and the bulk of the tri-city market with a Grade B signal, it is, nevertheless, precluded from effective competition with the Orlando and Daytona Beach stations which are entitled to mandatory signal carriage on Orlando and Daytona Beach cable television systems, whereas, in contrast, WMOD(TV) cannot demand such carriage and, accordingly, cannot charge advertising rates comparable to its competition. According to Southern, this is the unequal competitive situation which concerned the Commission when it adopted its hyphenated market policy. Southern also points out that there was no televison station licensed to Melbourne in 1972 when the Commission initially established the major market list and that, therefore, Melbourne could not have been considered for inclusion in the Orlando-Daytona Beach designation.

3. ATC, operator of three cable systems in the Orlando-Daytona Beach market, argues that Southern's proposal

must be considered in light of the functions of the mandatory carriage provisions, citing *Television Muscle Shoals*, 48 R.R. 2d 1191 (1980), *recon. denied*, 87 F.C.C. 2d 507 (1981). According to ATC, those provisions were adopted to ensure that "local" stations were not denied access to their natural over-the-air audiences, citing *Television Muscle Shoals*. ATC claims that there are many viewers situated within the Daytona Beach and Orlando 35-mile zones who do not come within WMOD(TV)'s natural over-the-air audience, and therefore, adoption of Southern's proposal would compel cable systems operating well outside WMOD (TV)'s Grade B contour to add a signal which would otherwise not reach their subscribers. Similarly, ATC refers to a second UHF TV station (WSCT, Channel 56) at Melbourne which would likewise acquire mandatory carriage status although its service area is even more limited in relation to Orlando and Daytona Beach. In this context, ATC questions, without elaboration, the constitutionality of the mandatory carriage provisions insofar as they interfere with a cable operator's editorial discretion concerning signal carriage and deprive a system of use of channels.[4]

4. In addition, ATC argues that there has been no showing that Southern's proposal is in the public interest. According to ATC, it is fallacious to first assume that Melbourne is a part of the Orlando-Daytona Beach market and then assert that the public interest would be served by ensuring access between cable subscribers and WMOD (TV). ATC refers to Arbitron off-air ratings and asserts that, in fact, they evidence a lack of interest in WMOD (TV)'s programming in the Orlando and Daytona Beach areas. According to ATC, in *Television Muscle Shoals* the Commission considered and rejected arguments concerning program costs and inability to charge competitive advertising rates.

5. ATC argues that, as a result of limited existing channel capacity, adoption of Southern's proposal would mean that cable systems would have to drop existing program services. According to ATC, this would impose a substantial burden on cable operators and subscribers, especially in light of the remoteness of Melbourne stations from Orlando and Daytona Beach audiences and the lack of existing presence of those stations in the affected cable communities. Finally, ATC asserts that only once has the Commission added a community to an existing hyphenated market designation citing *Newark, New Jersey*, 47 F.C.C. 2d 752 (1974), and then as a result of a compelling showing on the part of the petitioner. In contrast, ATC asserts that, absent compelling circumstances, the Commission has consistently refused to add to existing designations. In this context, ATC argues that the Arbitron designation including Melbourne is irrelevant, as the Commission has clearly indicated that, although its original major market list was derived largely from Arbitron's 1970 rankings, changes in those rankings would not justify changes in the major market list.

6. Micro's opposition is predicated on alleged copyright ramifications. According to Micro, operator of a Vero Beach, Florida cable system, under the Copyright Law of 1976, adoption of Southern's proposal would subject it to mandatory carriage of Orlando and Daytona Beach stations and potentially require it to pay over $100,000 annually in additional copyright royalty fees. This is so, says Micro, because the Copyright Law defines a local station as one entitled to mandatory carriage under the Commission's Rules in effect in 1976. According to Micro, inclusion of Melbourne in the existing Orlando-Daytona Beach designation will mean that, although the Orlando and Daytona Beach stations will remain distant in relation to Vero Beach for copyright purposes, it will, nevertheless, have to pay those stations additional royalty fees. Micro questions whether Southern needs cable carriage in Orlando and Daytona Beach, pointing out Southern's acknowledgment that rating services include WMOD(TV) in the Orlando-Daytona Beach market and that it presently receives advertising revenue on this basis. Micro claims that many cable systems, such as its own, are located at extremities of the proposed market designation and cannot receive signals of all stations and that this necessitates additional expenditures for microwave facilities. Accordingly, Micro also questions the accuracy of the Regulatory Flexibility Act Initial Analysis set forth in the *Notice*, claiming that, in fact, there will be "substantial" compliance costs to affected parties.

7. Micro suggests that, absent a denial of Southern's proposal, the Commission grant a waiver of its Rules so as to otherwise provide Orlando, Daytona Beach, and Melbourne stations with mandatory carriage rights within their mutual 35-mile zones without creating adverse copyright consequences. Finally, Micro states that it endorses Group W's suggestion (para. 8 *infra*.) that the Commission consult with the Copyright Office and amend § 76.51 only if the Copyright Office agrees not to collect royalty fees for "must carry" stations.

8. Group W describes itself as an operator of "several" cable systems in the Orlando-Daytona Beach market and states that, in the interest of stability, the major market list is not subject to change based on Arbitron ratings and that, to promote stability, the Commission has evaluated proposals to amend the list in light of three criteria which are not present here. First, Group W states that Daytona Beach is over 75 miles from Melbourne and is far outside the Grade B contours of Melbourne facilities. Thus, WMOD(TV) is not being denied access to its natural over-the-air market. In this regard, Group W cites *Television Muscle Shoals*, where the Commission refused a similar request in part because it would have required carriage of a station's signal beyond its Grade B contour and over an inordinate distance. Second, Group W claims that it will incur significant costs if it must carry Melbourne signals, whereas there will be no corresponding proportionate public benefit. In this regard, Group W claims that the Commission has previously rejected similar "unsupported" conclusions that a proposed community is part of an existing market and that the public interest benefits from promotion of intra-market competition, citing *Triangle Publications, Inc.*, 47 F.C.C. 2d 633, 634 (1974) and *Northeast Minnesota Cable TV, Inc.*, 49 F.C.C. 2d 983 (1974). Further, citing *Television Muscle Shoals*, Group W asserts that the Commission has previously rejected hyphenation in the face of significant costs and absent evidence of public benefits. Citing *Coldwater Cablevision, Inc.*, 66 F.C.C. 2d 235 (1977), Group W indicates that a waiver of the mandatory carriage provisions was appropriate where the costs of receiving off-air signals were prohibitive. Third, Group W argues that there is no public need to adopt Southern's proposal. According to Group W, WMOD(TV)'s inability to charge major market advertising rates while paying major market programming costs is shared by all similarly situated UHF stations and is a problem which the Commission need not underwrite and which was rejected in *Televison Muscle Shoals*. Group W asserts that avenues other than mandatory carriage are open

[4] See *Cable Systems Inc.*, 71 F.C.C. 2d 436 (1979), wherein the Commission noted that it previously rejected a contention that its cable television rules were in violation of the First Amendment, citing court decisions in accord. See also *Dublin Associates, Ltd.*, 45 R.R. 2d 1643 (1979).

to Southern to increase its audience. Group W contests Southern's claim that its programming is responsive to public needs and concerns in the three cities involved here, referring to Arbitron data. In this regard, Group W claims that existing programming from other sources is responsive to issues of public concern in the Orlando-Daytona Beach market and that any benefit from importing programming from Melbourne is outweighed by the disruption to existing sources. Finally, Group W agrees with Micro's comments on the adverse copyright consequences.

9. In its consolidated reply, Southern argues that ATC and Group W erroneously contend that the proposed amendment would be inconsistent with the mandatory carriage provisions. Citing *Television Muscle Shoals, supra*, Southern asserts that, for purposes of those provisions, "market" is the area to which stations look for economic support, and neither commenter disputes the "finding" set forth in the *Notice* that WMOD(TV) derives significant revenue from other communities, including Orlando. Southern argues that since the Commission contemplated that portions of hyphenated markets may lie outside the Grade B contours of some stations, ATC and Group W are wrong in asserting that allowing WMOD(TV) to require carriage beyond its Grande B contour would be violative of the Commission's mandatory carriage policy. While agreeing that the Rules should not be changed to reflect changes in Arbitron's rankings, Southern claims that its proposal conforms to the Commission's definition and policies regarding hyphenated markets and is not merely based upon those rankings. In this regard, Southern argues that cases cited as precedent for Commission refusal to amend hyphenated markets are factually distinguishable from this proceeding. Southern states that ATC and Group W ignore the fact that, unlike the *Television Muscle Shoals* situation, WMOD(TV) places a Grade A signal over all of Orlando and a grade B signal over most of the tri-city area and that hyphenation is proper where portions of a market are occasionally beyond the Grade B contours of some market stations, citing *Cable Television Report and Order*, 36 F.C.C. 2d 143 (1972). Southern contends that, although the hyphenation request in *Television Muscle Shoals* was denied, in part, because cable systems would be required to carry duplicative network programming, WMOD(TV) offers independent programming responsive to public needs and concerns. Finally, Southern argues that ATC, Micro, and Group W fail to address the issue of whether Melbourne should be included within the existing hyphenated market designation. Rather, Southern contends that these opponents raise confusing issues of significantly viewed signals waiver, and copyright which are more appropriately dealt with in other proceedings and context.

Cocoa

10. Good Life, licensee of Station WTGL–TV, Cocoa, asserts that all Orlando, Daytona Beach, and Melbourne television stations cover Cocoa with a Grade B signal and that WTGL–TV places a city grade signal over most of Orlando and all of Melbourne as well as a Grade A signal over a "substantial portion" of the Orlando-Daytona Beach market, that WTGL–TV competes with the other television stations in the Orlando-Daytona Beach-Melbourne area, and that bringing WTGL–TV's independent voice to this market is in the public interest. According to Good Life, in light of the "substantial similarities" between the market locations of its station and WMOD(TV) as well as their competitive postures, the public interest also requires that they be placed on an equal footing consistent with the objective of the hyphenated market rule as set forth in *Cable Television Report and Order, supra*.

11. ATC states that it opposes the Cocoa proposal for the same reasons it opposes the Melbourne proposal. Southern contends that Good Life has failed to demonstrate a public interest reason to add Cocoa or to provide evidence of a public desire in the Orlando-Daytona Beach area to receive WTGL–TV's signal. Group W asserts that Good Life's proposal shows that a grant of the Melbourne proposal would lead to similar requests by other UHF stations. Group W maintains that Good Life does no more than make a showing that its Grade B contour extends partly into the Orlando market, where WTGL–TV is not viewed significantly and lacks audience interest. Good Life points out that the Commission's cable rules require carriage as far as a commercial station's Grade B contour only where such a signal extends from one smaller market to another or into areas beyond all markets. Finally, Group W maintains that reliance on Grade B contours alone in determining the extent of hyphenated market designations could change the mandatory carriage landscape and lead to disasterous copyright consequences.

12. Micro suggests that to solve the "dilemma" it would face if § 76.51 were amended, the Commission should simultaneously grant a waiver of § 76.54 of its rules for all cable systems located within 35 miles of any designated community in the hyphenated market by which all present and future television stations licensed to any such designated communities would be deemed significantly viewed. According to Micro, since such action would be a waiver of § 76.51 as of its effective date of April 15, 1976, it would require cable systems to carry all stations in the market as "local" for both Commission and copyright purposes. Micro emphasizes, however, that this suggestion is put forth only in case § 76.51 is amended, an action which would mandate an examination of the overall consequences as well as appropriate relief under the Regulatory Flexibility Act, which requires consideration of the impact of new regulations on affected parties as well as minimization of adverse consequences.

13. Southern claims that it was not served with a copy of Micro's supplemental comments and that they contain no showing of good cause for acceptance. Alternatively, Southern asserts that the instant proceeding is not the appropriate forum to address the copyright issue. According to Southern, because the hyphenated market rules were in effect on April 15, 1976, amendment of those rules here would mean that WMOD(TV)'s signal would be treated as local for Commission purposes. This, states Southern, would require that this signal be treated as local for copyright purposes, just as signals deemed significantly viewed after April 15, 1976 have been treated as local for both FCC and copyright purposes. Only if the Copyright Office rejected such reasoning would Southern have the Commission revisit the coypright question. Good Life submits that Micro's proposal should be addressed in a separate rule making proceeding, because that would allow both a more expeditious consideration of the § 76.51 issue as well as a proper analysis of Micro's waiver proposal.

Discussion

14. The initial issue to be determined is whether the communities of Orlando, Daytona Beach, and Melbourne do, in fact, constitute a single television market. It has been established that the four TV stations currently licensed to Orlando (WFTV, WOFL, WMFE–TV, and WCPX–TV) as well as the station currently licensed to Daytona Beach (WESH–TV) compete within the same television market. An examination of the comments reveals that their Grade B contours all encompass the principal

communities of Orlando, Daytona Beach, and Melbourne and, to a significant extent, otherwise encompass the same geographic area. We believe that television stations actually do or logically can rely on the area within their Grade B contours for economic support. Thus, we believe that the communities do, in fact, comprise a single television market for economic purposes. However, this determination is not totally dispositive for purposes of the Commission's market designations and the question of whether or not hyphenation is appropriate.

15. For purposes of the mandatory carriage provisions, the term market was intended to refer to the areas on which stations in a market actually rely or logically can rely for economic support. See *Television Muscle Shoals, supra*, at 1193. An examination of the comments also reveals that the geographic area within WMOD(TV)'s Grade B contour falls almost entirely within these other contours. Further, the area encompassed by WMOD(TV)'s Grade B contour constitutes a significant portion of the existing hyphenated market designation, centered on and including the largest community, Orlando (population 128,394).[5] Since the area relied on by WMOD(TV) for economic support is embedded within the area relied on by the Orlando and Daytona Beach stations, for purposes of mandatory carriage, all of these stations are competitors in the same market.

16. That Arbitron now designates an "Orlando-Daytona Beach-Melbourne" television market is an additional indication of mutual economic reliance on the same market by stations licensed to all three component communities. Standing alone, Arbitron's designation is not sufficient to persuade the Commission to amend the major television market list as requested by Southern. The Commission initially established that list largely based on Arbitron's 1980 prime-time household ranking and indicated that, to provide stability, it would not revise its list each time Arbitron revised its rankings. *Cable Television Report and Order, supra*, at 171–172. Nevertheless, the Commission has not foreclosed the need to amend the major market list in light of changed circumstances, which evidence good reason to do so. In light of the above, it appears that WMOD(TV) and the Orlando and Daytona Beach stations all compete with each other in the same television market.

[5] Population figures are from the 1980 U.S. Census.

17. The Commission is cognizant of the fact that WMOD(TV)'s Grade B contour does not extend to Daytona Beach and that, therefore, its economic reliance does not extend to that portion of the market. However, the signal carriage rules were adopted in 1972, in part, "to assure that 'local' stations are carried on cable television systems and are not denied access to the audience they are licensed to serve * * *." *Cable Television Report and Order, supra*, at 173. Recognizing that there was no clear division between "local" and "distant" signals, the Commission, nevertheless, determined that a line had to be drawn. Accordingly, it concluded that certain classes of signals should be treated as local, including signals of stations licensed to communities in hyphenated markets. *Id.* Hyphenated markets were characterized as having "more than one major population center supporting all stations in the market but with competing stations licensed to different cities within the market * * *." *Id.* at 176. In light of the structure of such markets, "including terrain and population distribution," the Commission recognized that "portions * * * are occasionally located beyond the Grade B contours of some market stations," and, accordingly, adopted the hyphenated market provision into the mandatory carriage rules "to help equalized competition" between stations in hyphenated markets and "to assure that stations will have access to cable subscribers in the market and that cable subscribers will have access to *all* stations in the market." (emphasis added) *Ibid.* In light of the above, it appears that the communities of Orlando, Daytona Beach, and Melbourne do, in fact, constitute a single television market. In this regard, our determination that these communities constitute a single television market should not be viewed as marking a change in Commission policy, and we believe that, faced with the facts before us here, the Commission would have designated an Orlando-Daytona Beach-Melbourne hyphenated market when it initially established the major market list.

18. As set forth above, comments both supporting and opposing Southern's request contain reference to the *Television Muscle Shoals* case in which the Commission denied a request to amend the major market list by adding Florence, Alabama to the existing Huntsville-Decatur, Alabama hyphenated market designation. A comparison of the facts in that case with those here reveals significant differences. In *Television Muscle Shoals*, the Grade B contour of the television station licensed to Florence did not reach either Huntsville or Decatur. Likewise the Grade B signals of the Huntsville stations[6] did not reach Florence. Thus, the Florence and Huntsville stations, unlike the Melbourne, Orlando, and Daytona Beach stations, did not share a mutual economic reliance on the same market. Whereas the Florence station had very little off-air audience in any part of the 35-mile zones[7] around Huntsville and Decatur in which mandatory cable carriage was sought, the same cannot be said of WMOD(TV), which not only places a Grade B contour over and beyond Orlando, the major population center of the market, but which further places a Grade A signal over that community as well a Grade B signal over a portion of the 35-mile zone around Daytona Beach. In the earlier *Television Muscle Shoals* case, the Commission determined that, in the context of the cable television rules, the lack of cable carriage did not impede the Florence station from reaching its natural over-the-air audience, 48 R.R. 2d at 1194. In contrast, Southern seeks mandatory carriage privileges in areas in which most of tis natural over-the-air audience is located.

19. A determination that Melbourne, Orlando, and Daytona Beach comprise a single television market and, accordingly, that the major market list should reflect this, is consistent with the Commission's decision in *Television Muscle Shoals*. In that case, the Commission emphasized four factors applicable to a request to add a community to an existing television market designation: (1) The distance between the proposed community and existing designated communities; (2) whether most of the area where a station licensed to the proposed community would be afforded expanded

[6] No television stations were then operating from Decatur.

[7] Generally the specified zone (35 miles) around the city of license is the standard for determining the "market" for mandatory carriage purposes. See §§ 76.61(a)(1) and 76.5(f) of the Commission's Rules. That policy was intended, in part, to aid stations whose Grade B contours may not cover a radius of 35 miles. *Cable Television Report and Order, supra* at paragraph 82. However, the Commission recognized in that proceeding that the specified zone does not in all cases reflect the character of a market. Rather, some markets are reflected by a hyphenation because stations licensed to more than one community compete for audiences within a certain area. *Id.* at paragraph 87. In such cases, a station's transmitter is often located closer to a population center outside the specified zone of that station's community of license. The hyphenation technique would be a more accurate characterization of the market area in those cases than would the specified zone.

carriage rights lies beyond its Grade B contours; (3) the presence of a clear showing of particularized need by a station requesting a change of designation; and (4) an indication of benefit to the public from the proposed change. The Commission's denial of the request to add Florence to the existing market designation turned on these four factors. First, there was a significant distance, approximately 75 miles, separating the Florence and Huntsville stations. Second, most of the area in which the Florence station sought expanded carriage rights lay outside its Grade B contour. Third, there was no clear showing of particularized need by the Florence station for such expanded rights. Finally, there would be no public benefit from a grant of the requested change. 48 R.R. at 1194. Here, the distance between WMOD(TV) and its competitors licensed to Orlando and Daytona Beach is appreciably less than in *Television Muscle Shoals*. Significantly, unlike the market situation faced by the Florence station, the geographic area in which WMOD(TV)'s off-air audience is situated is nearly entirely embedded within the areas encompassed by the Grade B contours of the Orlando and Daytona Beach stations. Although WMOD(TV) will gain expanded carriage rights outside its Grade B contour area, it will, nevertheless, largely gain such rights in a significant area within that contour, meeting our test as set out in *Television Muscle Shoals*. Southern's particularized need for expanded carriage rights is demonstrated by its showing that, unlike other stations in its market, it faces a competitive disadvantage, because it is not entitled to demand cable carriage in certain portions of that market. Finally, unlike *Television Muscle Shoals*, additional hyphenation here would not merely provide duplicative network programming or programming which would not serve the needs of Orlando-Daytona Beach audiences. As noted, WMOD(TV) is an independent station, and Southern contends that it has and will program in the interest of viewers in the Orlando and Daytona Beach areas of the market, thereby providing a public benefit.

20. A consequence of amending the major television market list by expanding the existing Orlando-Daytona Beach designation is that a cable television system serving a community situated within 35 miles of any designated community could be required, under the mandatory carriage provision of Section 76.61(a)(4) of the cable television rules, to carry the signal of any station licensed to any designated market community. This is so even though such a signal might not otherwise be available "off-air" in the community served by the system. In the instant situation, a grant of Southern's request would afford WMOD(TV) mandatory carriage rights in communities located as far as 35 miles north of Daytona Beach and clearly beyond that station's over-the-air signal. Similarly, a system serving a community located south of Melbourne might have to carry WESH–TV's signal, even though the audience in that portion of the market could not otherwise receive it. Although, to some extent, this consequence results in certain stations being able to compete for audiences they could not otherwise reach, the mandatory carriage provisions reflect the Commission's policy determination that competition among all market stations be equalized by providing all stations and all cable subscribers access to each other. In making that determination, the Commission was aware that it was aiding stations whose Grade B contours were limited by extending their coverage to areas deemed necessary to their development. See *Cable Television Report and Order, supra*, at 174.

21. As noted by ATC, the Commission has previously granted only one request to amend the major television market list. In that situation, the licensee of a television station licensed to Newark, New Jersey sought inclusion of its community of license in the existing New York, New York-Paterson-Linden, New Jersey hyphenated market designation, pointing out that the 35-mile zones of those designated communities encompassed Newark's 35-mile zone, resulting in an anomalous situation whereby a smaller television market was wholly contained within a major market. Faced with those facts, the Commission concluded that all four cities constituted a single market within which television stations licensed therein must compete and that, therefore, each city should be designated to the same television market. *Newark, New Jersey, supra*, at 753. The factual circumstances in the Newark and Melbourne situations are sufficiently similar so that a similar determination is appropriate. As noted, WMOD(TV)'s Grade B contour is almost entirely enclosed within the areas on which the Orlando and Daytona Beach stations rely for economic support. Such a situation is distinguishable from others where stations are licensed to separate but geographically proximate markets and look to market areas which merely overlap.

22. The factual situations concerning Cocoa are sufficiently similar to those concerning Melbourne to warrant inclusion of the former in the existing major market designation. Specifically, the Grade B contours of the Orlando and Daytona Beach stations totally encompass Cocoa, which is geographically nearer the center of the Orlando-Daytona Beach market than is Melbourne, and WTGL–TV's Grade B contour is nearly identical to WMOD(TV)'s. Further, it is not alleged that WTGL–TV's programming will be duplicative of that already available in the market. Accordingly, our determination regarding Good Life's request is based upon the same policy considerations set forth above regarding Southern's request.

23. The concerns of ATC, Micro and Group W are concentrated on the consequences of an amended hyphenated market designation in conjunction with the mandatory carriage provision of § 76.61. While these concerns are relevant, we can not be guided by matters outside the focus of the issue to be determined here. As indicated above, the findings that Melbourne and Cocoa are part of a single Orlando-Daytona Beach-Melbourne-Cocoa market are based on factors of service, coverage, economics of operation, and other market indicators rather than the impact of these findings on certain cable systems. To the extent this amendment to the existing market designation results in hardships to cable systems, it is appropriate to evaluate such results for relief by seeking a waiver of the mandatory carriage rule. See § 76.7 of the Commission's Cable Television Rules. Consequently, the suggestions put forth by Micro and by Group W concerning alternate Commission action in this regard will not be considered here.

24. The Commission's determination that it is appropriate to amend the major television market list in response to the requests in this proceeding is based on the reasons set forth above. Nevertheless, the Commission appreciates the copyright concerns expressed by Micro and by Group W. As noted by the cable opponents, the Copyright Act obligates operators of cable television systems to pay royalty fees for the carriage of distant, as opposed to local, television stations. For copyright purposes, local signals are defined in section 111(f) of the Copyright Act as those which were subject to mandatory carriage pursuant to the

Commission's Rules in effect on April 15, 1976. As of that date, § 76.61 provided carriage rights to local stations, and for mandatory carriage purposes, stations licensed to designated communities in major hyphenated television markets were considered local. As set forth above, Commission action in the instant proceeding constitutes a recognition that the Melbourne and Cocoa stations compete with the Orlando and Daytona Beach stations and that, accordingly, their communities of license are part of the same market whose designation should reflect that fact. As a consequence, the Melbourne and Cocoa stations are considered local for purposes of mandatory carriage and, thus, should also be considered local for purposes of the Copyright Act.[8] Section 76.61 is unaffected by Commission action here. Although additional stations will henceforth be able to insist on mandatory signal carriage, that is a consequence of the market situation, not of a change in the Commission's Rules in effect on April 15, 1976. This situation is similar to that where, under § 76.54, a television signal is determined to be significantly viewed and thereby falls under the mandatory carriage provisions.[9] A signal determined to be significantly viewed subsequent to April 15, 1976 is considered as local for both mandatory carriage and copyright purposes.

25. Sections 76.51 and 76.61 of the Commission's cable television rules were, as noted, in effect prior to April 15, 1976. Action taken by the Commission in this proceeding does not alter either provision. The major television market list will continue to encompass the same top 100 markets. No markets are hereby added and none deleted. The Orlando-Daytona Beach market is being redesignated Orlando-Daytona Beach-Melbourne-Cocoa to reflect changes in that market since 1972. Although additional stations, such as WMOD–TV and WTGL–TV, will thereby acquire mandatory carriage rights, they will do so pursuant to § 76.61 of the Rules which was, as noted, in effect on April 15, 1976.

26. The Commission recognizes that the Copyright Royalty Tribunal which was established to administer the copyright system, and, which has jurisdiction over copyright matters, is not bound by the Commission's determination of copyright issues. Nevertheless, the Commission finding that the market designation should reflect the addition of local signals is based on matters within its area of expertise and with due regard to the copyright consequences of such action.

27. As for Micro's argument that the Regulatory Flexibility Act Initial Analysis was inaccurate since some small businesses will incur expenses such as those related to operation of microwave equipment necessary to receive the signals of stations licensed to Melbourne and/or Cocoa, the Commission has previously determined in a similar context, that is, amendments to its FM and Television Tables of Assignments,[10] that the provisions of Sections 603 and 604 of the Regulatory Flexibility Act [11] do not apply. See *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981. The Commission certifies here that, as provided by section 605 of the Regulatory Flexibility Act, because there are few entities directly affected in the matter of amendment of § 76.51 of its Rules and these parties have had the opportunity to comment on the proposals here, the provisions of the Act do not require additional analysis beyond what has been specifically addressed in relation to the directly affected parties.

28. Authority for the actions taken herein is contained in sections 4(i) and 303 (g) and (r) of the Communications Act of 1934, as amended.

PART 76—[AMENDED]

29. Accordingly, it is ordered, That effective February 19, 1985, the list of Major Television Markets (§ 76.51 of the Commission's Rules) is amended by revising (b)(55) as follows:

§ 76.51 [Amended]

* * * * *

(b) * * *

(55) Orlando-Daytona Beach-Melbourne-Cocoa, Florida.

* * * * *

30. It is further ordered, That this proceeding is terminated.

31. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau (202) 634–6530.

[Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303]

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85–1335 Filed 1–16–85; 8:45 am]

BILLING CODE 6712-01-M

[8] Our interpretation of the Copyright Act is not a mandatory opinion which binds the Copyright Royalty Tribunal. Should the Tribunal find to the contrary, the Commission could revisit this matter in a future proceeding.

[9] See §§ 76.57(a)(4), 76.59(a)(6), and 76.61(a)(5) of the Commission's Rules.

[10] Sections 73.202(b), 73.504, and 73.606(b).

[11] Pub. L. 96–354, September 19, 1980, 94 Stat 1164, 5 U.S.C. 601 *et seq.*

MARINE MAMMAL COMMISSION

50 CFR Parts 550 and 560

Government in the Sunshine Act

AGENCY: Marine Mammal Commission.

ACTION: Final rule.

SUMMARY: Pursuant to the Government in the Sunshine Act, (Sunshine Act) (5 U.S.C. 552b), the Marine Mammal Commission amends Title 50, Chapter V of the Code of Federal Regulations by adding a new Part 560. The purpose of these regulations is to implement the open meeting requirements of the Sunshine Act (5 U.S.C. 552b, (b)–(f)). Promulgation of these regulations is required by 5 U.S.C. 552b(g).

EFFECTIVE DATE: These regulations shall become effective on January 17, 1985.

FOR FURTHER INFORMATION CONTACT: Donald C. Baur, General Counsel, Marine Mammal Commission, Room 307, 1625 I Street NW., Washington, D.C. 20006, (202) 653–6237.

SUPPLEMENTARY INFORMATION:

Background

Enacted in 1976, the Government in the Sunshine Act advances the policy of Congress that "the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government" (Pub. L. 94–409, Section 2, 90 Stat. 1241). It is based on the proposition that "the government should conduct the public's business in public" (S. Rep. No. 354, 94th Cong., 1st Sess. 1 (1975)). Through its provisions, Congress has attempted to "increase the public's faith in the integrity of government, enable the public to better understand the decisions reached by the Government, and better acquaint the public with the process by which agency decisions are reached" (*Id*).

The requirements of the Sunshine Act apply to each agency that is headed by a "collegial body composed of two or more members, a majority of whom are appointed to such positions by the President with the advice and consent of the Senate" (5 U.S.C. 552b(a)(1)). Agencies included within this definition are required to hold "every portion of every meeting * * * open to public observation," (5 U.S.C. 552b(b)), unless

the meeting or portions thereof fall within one of the ten exemptions set forth in 5 U.S.C. 552b(c). These exemptions are permissive, not mandatory, and an agency may either open or release information about an otherwise exempted meeting or portion thereof.

The Marine Mammal Commission was established pursuant to statute in 1972, under section 201 of the Marine Mammal Protection Act (16 U.S.C. 1401). Under that section, the Commission is composed of three members who are "knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals" (16 U.S.C. 1401(b)(1)).

On December 29, 1982, the Marine Mammal Protection Act was amended to require that all future members of the Commission be appointed by the President "by and with the advice and consent of the Senate" (Pub. L. No. 97-389, section 202, 96 Stat. 1951). This amendment brought the Commission within the Sunshine Act definition of "agency." As a result, at such time as two members of the Commission have been appointed in accordance with the procedures of the 1982 amendment and are serving concurrently, the Commission will be required to conduct its deliberations in compliance with the open meeting provisions of the Act.

At this time, all three members of the Commission are serving in positions that are covered by the 1982 amendment, and the deliberations of the Commission are now subject to the requirements of the Act. It is the intent of this rulemaking to promulgate Marine Mammal Commission regulations that implement those requirements. Although the decision making processes of the Commission have consistently provided for public observation and participation, these proposed regulations will bring those procedures into technical compliance with the Sunshine Act.

These regulations are required to implement the open meeting, public notice, and other procedural requirements of the Act. All of those requirements are mandatory and are now applicable to the Commission. It is therefore necessary to establish agency procedures that apply the requirements of the Act to the operations of the Commission as soon as possible. For this reason, these regulations shall go into effect immediately upon publication. Such action constitutes good cause under 5 U.S.C. 553(d)(3) for making these regulations effective less than 30 days after publication.

Two noteworthy changes have been made to the regulations that were published as proposed on May 1, 1984, 49 FR 18578. First, the definition of "meeting" has been amended to exclude deliberations on whether or not to take any of the following actions: (1) Hold a meeting with less than 7 days notice, as provided in § 560.4(d); (2) change the determination to either open or close a meeting or portions thereof to public observation; and (3) change either the time or place of an announced meeting. These changes were made to conform the definition of "meeting" in the regulations to the definition of that term as it is set forth in the Sunshine Act.

Second, in § 560.4(e) of the proposed regulations, it was provided that the "determination of the Commission to open or close a meeting or portion thereof to the public" could be changed if a majority of the Commission determined to do so through a recorded vote. The final version of § 560.4(e) has been changed by inserting the word "observation" after "public."

The purpose of this change is to make it clear that a recorded vote of the Commission is not required to close a meeting to "public participation." The open meeting requirements of the Sunshine Act apply to public observation. Whether or not to provide an opportunity to the public to participate in a Commission meeting is a matter of discretion that is governed by § 560.3(b) of these regulations. For this reason, a decision to close a meeting to public participation (as distinguished from public observation) need not follow the procedural requirements of § 560.4(e).

Drafting Information

The primary author of these regulations is Donald C. Baur, General Counsel, Marine Mammal Commission.

Paperwork Reduction Act

This rulemaking adds no information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Commission has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193, February 19, 1981).

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission has determined that these regulations will not have a significant economic effect on a substantial number of small entities and that a regulatory analysis is not required. The proposed regulations are procedural requirements affecting the internal processes of the Marine Mammal Commission. As such, they do not impose significant burdens on the public or any class or group of small entities.

These proposed regulations do not affect the environment, and the Commission has not prepared an environmental impact statement.

List of Subjects in 50 CFR Part 560

Sunshine Act.

In consideration of the foregoing, 50 CFR Chapter V is amended by reserving Part 550 and adding a new Part 560, reading as follows:

PART 550—[RESERVED]

PART 560—IMPLEMENTATION OF THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

Authority: 5 U.S.C. 552b(g).

§ 560.1 Purpose and scope.

This part contains the regulations of the Marine Mammal Commission implementing the Government in the Sunshine Act (5 U.S.C. 552b). Consistent with the Act, it is the policy of the Marine Mammal Commission that the public is entitled to the fullest practicable information regarding its decision making processes. The provisions of this part set forth the basic responsibilities of the Commission with regard to this policy and offer guidance to members of the public who wish to exercise the rights established by the Act. These regulations also fulfill the requirement of 5 U.S.C. 552b(g) that each agency subject to the Act promulgate regulations to implement the open meeting requirements of subsections (b) through (f) of section 552b.

§ 560.2 Definitions.

For purposes of this part, the term—

"Administrative Officer" means the Administrative Officer of the Marine Mammal Commission.

"Commission" means the Marine Mammal Commission, a collegial body established under 16 U.S.C. 1401 that functions as a unit and is composed of three individual members, each of whom is appointed by the President, by and with the advice and consent of the Senate.

"Commissioner" means an individual who is a member of the Marine Mammal Commission.

"Executive Director" means the Executive Director of the Marine Mammal Commission.

"General Counsel" means the General Counsel of the Marine Mammal Commission.

"Meeting" means the deliberations of at least a majority of the members of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include an individual Commissioner's consideration of official Commission business circulated in writing for disposition either by notation or by separate, sequential consideration, and deliberations on whether to:

(1) Hold a meeting with less than 7 days notice, as provided in § 560.4(d) of this part;

(2) Change the subject matter of a publicly announced meeting or the determination of the Commission to open or close a meeting or portions thereof to public observation, as provided in § 560.4(e) of this part;

(3) Change the time or place of an announced meeting, as provided in § 560.4(f) of this part;

(4) Close a meeting or portions of a meeting, as provided in § 560.5 of this part; or

(5) Withhold from disclosure information pertaining to a meeting or portions of a meeting, as provided in § 560.5 of this part.

"Public observation" means attendance by one or more members of the public at a meeting of the Commission, but does not include participation in the meeting.

"Public participation" means the presentation or discussion of information, raising of questions, or other manner of involvement in a meeting of the Commission by one or more members of the public in a manner that contributes to the disposition of Commission business.

§ 560.3 Open meetings.

(a) Except as otherwise provided in this part, every portion of every meeting of the Commission shall be open to public observation.

(b) Meetings of the Commission, or portions thereof, shall be open to public participation only when an announcement to that effect is issued under § 560.4(b)(4) of this part. Public participation shall be conducted in an orderly, nondisruptive manner and in accordance with such procedures as the chairperson of the meeting may establish. Public participation may be terminated at any time for any reason.

(c) When holding open meetings, the Commission shall make a diligent effort to provide ample space, sufficient visibility, and adequate acoustics to accommodate the public attendance anticipated for the meeting.

(d) Members of the public may record open meetings of the Commission by means of any mechanical or electronic device, unless the chairperson of the meeting determines that such recording would disrupt the orderly conduct of the meeting.

§ 560.4 Notice of meetings.

(a) Except as otherwise provided in this section, the Commission shall make a public announcement at least 7 days prior to a meeting.

(b) The public announcement shall include:

(1) The time and place of the meeting;

(2) The subject matter of the meeting;

(3) Whether the meeting is to be open, closed, or portions thereof closed;

(4) Whether public participation will be allowed; and

(5) The name and telephone number of the person who will respond to requests for information about the meeting.

(c) The public announcement requirement shall be implemented by:

(1) Submitting the announcement for publication in the **Federal Register**;

(2) Distributing the announcement to affected governmental entities;

(3) Mailing the announcement to persons and organizations known to have an interest in the subject matter of the meeting; and

(4) Other means that the Executive Director deems appropriate to inform interested parties.

(d) A meeting may be held with less than 7 days notice if a majority of the members of the Commission determine by recorded vote that the business of the Commission so requires. The Commission shall make a public announcement to this effect at the earliest practicable time. The announcement shall include the information required by paragraph (b) of this section and shall be issued in accordance with those procedures set forth in paragraph (c) of this section that are practicable given the available period of time.

(e) The subject matter of an announced meeting, or the determination of the Commission to open or close a meeting or portions thereof to public observation, may be changed if a majority of the members of the Commission determine by recorded vote that Commission business so requires and that no earlier announcement of the change was possible. The Commission shall make a public announcement of the changes made and the vote of each member on each change at the earliest practicable time. The announcement shall be issued in accordance with those procedures set forth in paragraph (c) of this section that are practicable given the available period of time.

(f) The time or place of an announced meeting may be changed only if a public announcement of the change is made at the earliest practicable time. The announcement shall be issued in accordance with those procedures set forth in paragraph (c) of this section that are practicable given the available period of time.

§ 560.5 Closed meetings.

(a) A meeting or portions thereof may be closed, and information pertaining to such meeting or portions thereof may be withheld from the public, only if the Commission determines that such meeting or portions thereof, or the disclosure of such information, is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (ii) in fact properly classified pursuant to that Executive Order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that the statute: (i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose the trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve either accusing any person of a crime or formally censuring any person;

(6) Disclose information of a personal nature, if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose either investigatory records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of the records or information would:

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to either a fair trial or an impartial ajudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source or sources and, in the case of a record compiled either by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source or sources,

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Commission. This exception shall not apply in any instance where the Commission has already disclosed to the public the content or nature of the proposed action or where the Commission is required by law to make such disclosure on its own initiative prior to taking final action on the proposal; or

(10) Specifically concern the issuance of a subpoena by the Commission, or the participation of the Commission in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Commission of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(b) Before a meeting or portions thereof may be closed to public observation, the Commission shall determine, notwithstanding the exemptions set forth in paragraph (a) of this section, whether or not the public interest requires that the meeting or portions thereof be open. The Commission may open a meeting or portions thereof that could be closed under paragraph (a) of this section if the Commission finds it to be in the public interest to do so.

§ 560.6 Procedures for closing meetings.

(a) A meeting or portions thereof may be closed and information pertaining to such meeting or portions thereof may be withheld under §560.5 of this part only when a majority of the members of the Commission vote to take such action.

(b) A separate vote of the members of the Commission shall be taken with respect to each meeting or portion thereof proposed to be closed and with respect to information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings or portions thereof which are proposed to be closed, so long as each meeting or portion thereof in such series involves the same particular matter and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each participating Commission member shall be recorded, and no proxies shall be allowed.

(c) A person whose interests may be directly affected by a portion of a meeting may request in writing that the Commission close that portion of the meeting for any of the reasons referred to in §§ 560.5(a) (5), (6) or (7) of this part. Upon the request of a Commissioner, a recorded vote shall be taken whether to close such meeting or a portion thereof.

(d) Before the Commission may hold a meeting that is closed, in whole or part, a certification shall be obtained from the General Counsel that, in his or her opinion, the meeting may properly be closed. The certification shall be in writing and shall state each applicable exemptive provision from § 560.5(a) of this part.

(e) Within one day of a vote taken pursuant to this section, the Commission shall make publicly available a written copy of such vote reflecting the vote of each Commissioner.

(f) In the case of the closure of a meeting or portions thereof, the Commission shall make publicly available within one day of the vote on such action a full written explanation of the reasons for the closing together with a list of all persons expected to attend the meeting and their affiliation.

§ 560.7 Recordkeeping requirements.

(a) Except as otherwise provided in this section, the Commission shall maintain either a complete transcript or electronic recording of the proceedings of each meeting, whether opened or closed.

(b) In the case of either a meeting or portions of a meeting closed to the public pursuant to §§ 560.5(a) (8) or (10) of this part, the Commission shall maintain a complete transcript, an electronic recording, or a set of minutes of the proceedings. If minutes are maintained, they shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken and the reasons for which such actions were taken, including a description of the views expressed on any item and a record reflecting the vote of each Commissioner. All documents considered in connection with any action shall be identified in the minutes.

(c) The transcript, electronic recording, or copy of the minutes shall disclose the identity of each speaker.

(d) The Commission shall maintain a complete verbatim copy of the transcript, a complete electronic recording, or a complete copy of the minutes of the proceedings of each meeting for at least two years, or for one year after the conclusion of any Commission proceeding with respect to which the meeting was held, whichever occurs later.

§ 560.8 Public availability of records.

(a) The Commission shall make available to the public the transcript, electronic recording, or minutes of a meeting, except for items of discussion or testimony that relate to matters the Commission has determined to contain information which may be withheld under § 560.5 of this part.

(b) The transcript, electronic recordings or minutes of a meeting shall be made available for public review as soon as practicable after each meeting at the Marine Mammal Commission, 1625 I Street NW., Washington, D.C. 20006.

(c) Copies of the transcript, a transcription of the electronic recording, or the minutes of a meeting shall be furnished at cost to any person upon written request. Written requests should be addressed to the Administrative Officer, Marine Mammal Commission, 1625 I Street NW., Washington, D.C. 20006.

§ 560.9 [Reserved]

Dated: January 9, 1985.

Robert J. Hofman,

Acting Executive Director, Marine Mammal Commission.

[FR Doc. 85-1307 Filed 1-16-85; 8:45 am]

BILLING CODE 6820-31-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 41154-4154]

Tanner Crab Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of season closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has