

document which was published Monday, April 24, 1995 (60 FR 20052).
EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT:
Gayle Shifflett, Publications Branch,
(202) 418-0310.

SUPPLEMENTARY INFORMATION:

Need of Correction

As published, the final regulation document contains an error in the effective date, the window period and closing date.

Correction of Publication

Accordingly, the publication on April 24, 1995 of the final regulations, which were the subject of FR Doc. 95-10026 is corrected as follows:

On page 20052, in the second column, in the DATES section, the effective date, the window period for filing applications should be June 5, 1995 in lieu of May 29, 1995.

The closing date for filing applications should be July 6, 1995 in lieu of June 13, 1995.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-13215 Filed 5-30-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 94-68; RM 8486]

Radio Broadcasting Services; Billings, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final regulation document which was published Monday, April 24, 1995 (60 FR 20052).

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT:
Gayle Shifflett, Publications Branch,
(202) 418-0310.

SUPPLEMENTARY INFORMATION:

Need of Correction

As published, the final regulation document contains an error in the effective date, the window period and closing date.

Correction of Publication

Accordingly, the publication on April 24, 1995 of the final regulations, which were the subject of FR Doc. 95-10025 is corrected as follows:

On page 20052, in the third column, in the DATES section, the effective date,

the window period for filing applications should be June 5, 1995 in lieu of May 29, 1995.

The closing date for filing applications should be July 6, 1995 in lieu of June 13, 1995.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-13214 Filed 5-30-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 76

[CS Docket No. 94-95; DA 95-1121]

Cable Television Service; List of Major Television Markets

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, through this action, amends its rules regarding the listing of major television markets to change the designation of the Tampa-St. Petersburg-Clearwater, Florida television market to include the community of Lakeland, Florida. This action is taken at the request of Public Interest Corporation, licensee of television station WTMV(TV), channel 32, Lakeland, Florida.

EFFECTIVE DATE: Rule provisions of Part 76 shall be effective June 30, 1995.

FOR FURTHER INFORMATION CONTACT:
Leora Hochstein, Cable Services Bureau,
(202) 416-0800.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, CS Docket No. 94-95, adopted May 16, 1995 and released May 25, 1995. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 1919 M Street NW., Washington, DC 20554.

Synopsis of the Report and Order

1. Before the Commission is the *Notice of Proposed Rule Making* adopted on August 12, 1994 and released on August 15, 1994, 59 FR 43805 (1994), issued in response to a petition filed by Public Interest Corporation, licensee of television station WTMV(TV), channel 32, Lakeland, Florida ("WTMV"). The *Notice* proposed to amend § 76.51 of the Commission's Rules, to change the designation of the Tampa-St. Petersburg-Clearwater, Florida television market to

"Tampa-St. Petersburg-Clearwater-Lakeland, Florida." No comments in opposition to this proposal have been filed.

Background

2. Section 76.51 of the Commission's Rules enumerates the top 100 television markets and the designated communities within those markets. Among other things, this market list is used to determine the scope of territorial exclusivity rights that television broadcast stations may purchase and, in addition, may help define the scope of compulsory copyright license liability for cable operators in certain circumstances. Certain cable television syndicated exclusivity and network nonduplication rights are also determined by the presence of broadcast station communities of license on this list. Some of the markets consist of more than one named community (a "hyphenated market"). Such "hyphenation" of a market is based on the premise that stations licensed to any of the named communities in the hyphenated market do, in fact, compete with all stations licensed to such communities. Market hyphenation "helps equalize competition" where portions of the market are located beyond the Grade B contours of some stations in the area yet the stations compete for economic support.

3. Section 4 of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act"), which amended Section 614 of the Communications Act of 1934, as amended ("Act"), requires the Commission to make revisions needed to update the list of top 100 television markets and their designated communities in § 76.51 of the Commission's Rules.

Rule Making Comments

4. The petitioner contends that WTMV in Lakeland competes directly with television stations in the Tampa-St. Petersburg-Clearwater hyphenated market for audience share and advertising revenues. Although Lakeland is located inside the Tampa-St. Petersburg "area of dominant influence" ("ADI"), the petitioner argues that because Lakeland is not a designated community in the above market, WTMV is considered a "distant signal" for purposes of compulsory copyright license liability if carried on cable systems more than 35 miles from Lakeland. According to the petitioner, the consequence of being classified as a "distant signal" is that cable systems will have to pay significant copyright

royalties in order to carry WTMV, and WTMV, in turn, will have to indemnify the cable systems for these royalties. In contrast, stations licensed to communities specifically designated in § 76.51 are considered local for all cable systems within the 35-miles zones of the listed communities in a given hyphenated market and are not subject to copyright liability. The petitioner asserts that because WTMV may have to pay copyright fees attendant to its carriage as a "distant signal" that stations in Tampa, St. Petersburg and Clearwater do not, WTMV is disadvantaged in its competition with these stations.

5. In support of its proposal, the petitioner states that it meets all of the criteria stipulated by the Commission for redesignation of the hyphenated market. The petitioner contends that Lakeland is sufficiently proximate to Tampa, St. Petersburg and Clearwater to be considered part of the Tampa-St. Petersburg-Clearwater hyphenated market. According to the petitioner, Lakeland is only 31 miles from Tampa, 47 miles from St. Petersburg, and 50 miles from Clearwater. The petitioner maintains that because of this geographic proximity, Lakeland, Tampa, St. Petersburg and Clearwater have shared economic, social and cultural interests which link them together as a single television market. The petitioner submits a contour map showing that WTMV provides city grade contour coverage to part of Tampa, Grade A contour coverage to virtually all of Tampa, and Grade B contour coverage to all of St. Petersburg. Clearwater is just beyond WTMV's Grade B contour, however, it is part of the Tampa-St. Petersburg ADI. A map delineating the Grade B contours of stations in the Tampa area reveals that the signal contours of WTMV substantially overlap with the signal contours of other stations in the Tampa-St. Petersburg ADI. To further support its contention that WTMV competes directly with Tampa market stations and is an integral part of the Tampa-St. Petersburg ADI, the petitioner asserts that WTMV is widely recognized as a Tampa market station. In particular, the petitioner notes the following: Tampa newspapers and magazines include WTMV in television program listings; Tampa-based publications have recognized the station for its programming and commitment to local service; program syndicators charge WTMV Tampa market rates for programming; and Tampa businesses as well as regional and national advertisers buy time on WTMV. In addition, the petitioner states

that WTMV carries many ABC, NBC and CBS programs when the Tampa network affiliates preempt their network programming and that WTMV is the Tampa television affiliate for the Florida Marlins major league baseball club. The petitioner urges the Commission to add Lakeland to the Tampa-St. Petersburg-Clearwater hyphenated market in order to redress what the petitioner perceives as a competitive imbalance between WTMV and stations licensed to Tampa, St. Petersburg and Clearwater.

Discussion

6. A "hyphenated market" has been described by the Commission as a television market that contains more than one major population center supporting all stations in the market, with competing stations licensed to different cities within the market area. In evaluating past requests for hyphenation of a market, the Commission has considered the following as relevant to its examination: (1) The distance between the existing designated communities and the community proposed to be added to the designation; (2) whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area; (3) the presence of a clear showing of a particularized need by the station requesting the change of market designation; and (4) an indication of benefit to the public from the proposed change. Each of these factors helps the Commission to evaluate individual market conditions consistent "with the underlying competitive purpose of the market hyphenation rule to delineate areas where stations can and do, both actually and logically, compete."

7. Based on the facts presented here, we believe that a case for redesignation of the subject market has been set forth so that this proposal should be adopted. It appears from the information before us that television stations licensed to Tampa, St. Petersburg, Clearwater and Lakeland do compete for programming, audience and advertisers in the proposed combined market area, and that sufficient evidence has been presented to demonstrate commonality between the proposed community to be added to the market designation and the market as a whole. In addition, no oppositions to the proposed rehyphenation have been filed.

8. We note that the issue raised by the petitioner regarding WTMV's copyright license liability has largely been resolved with the passage of the Satellite Home Viewer Act of 1994, which amended Section 111(f) of title 17, United States Code. Under this Act,

a station located within the same ADI as a cable system is no longer considered a "distant signal" on that system for purposes of compulsory copyright license liability and, therefore, is not subject to the additional copyright fees attendant to "distant signal" carriage within the market. Applying the Act to the facts of this proceeding, WTMV would not be considered a "distant signal" if carried on cable systems located in the Tampa-St. Petersburg ADI and, therefore, would not face additional copyright fees relative to other stations located within the same ADI. Nevertheless, we find that the equalization of the regulatory status of WTMV with stations in Tampa St. Petersburg and Clearwater through the inclusion of Lakeland as a named community in the market is warranted given that WTMV competes with these stations for programming, audience and advertisers. Such a rationalization of the competitive situation appears to be the public benefit which congress anticipated by instructing the Commission, in Section 614(f) of the Cable Television Consumer Protection and Competition Act of 1992, to make necessary revisions to update the market list.

9. This proceeding is not intended to address the specific mandatory cable carriage, syndicated exclusivity or network nonduplication obligations of individual cable systems. Redesignation of the market reflects in the rules the general competitive situation that in fact exists in the local area, allowing the application of the more specific rules, including those relating to "area of dominant influence" changes, to be addressed from the perspective of a properly defined market area. Accordingly, the proposed rule change will be adopted.

10. Accordingly, it is ordered, that effective June 30, 1995, § 76.51 of the Commission's Rules is amended to include Lakeland, Florida, as follows: Tampa-St. Petersburg-Clearwater-Lakeland, Florida.

11. It is further ordered, that this proceeding IS TERMINATED.

12. This action is taken by the Cable Services Bureau pursuant to authority delegated by § 0.321 of the Commission's rules. 47 CFR 0.321.

List of Subjects in 47 CFR Part 76

Cable television.

Part 76 of Chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for Part 76 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

2. Section 76.51 is amended by revising paragraph (a)(28) to read as follows:

§ 76.51 Major television markets.

* * * * *

(a) * * *

(28) Tampa-St. Petersburg-Clearwater-Lakeland, Florida

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Federal Communications Commission.

William H. Johnson,

Deputy Chief, Cable Services Bureau.

[FR Doc. 95-13213 Filed 5-30-95; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 673**

[Docket No. 950223058-5058-01; I.D. 022395A]

Scallop Fishery off Alaska; Closure of Federal Waters to Protect Scallop Stocks

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

ACTION: Emergency interim rule; extension of effective date; response to comments.

SUMMARY: An emergency interim rule that closed Federal waters off Alaska to fishing for scallops is in effect through May 30, 1995. NMFS extends the emergency rule for an additional 90-day period (through August 28, 1995) to prevent overfishing of scallop stocks in an uncontrolled fishery for scallops in Federal waters by vessels fishing outside Alaska State's regulatory authority to govern the scallop fishery. This emergency closure is intended to control an unregulated scallop fishery in Federal waters until a Federal fishery management plan can be implemented. NMFS also responds to comments submitted on the interim emergency rule as published in the **Federal Register** on March 1, 1995, for comment. No change to the emergency rule was made as a result of NMFS' response to comments.

EFFECTIVE DATE: The interim regulations published on March 1, 1995

(60 FR 11054, as corrected at 60 FR 12825, March 8, 1995) are extended from May 31, 1995, through August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Susan Salveson, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS published an emergency interim rule in the **Federal Register** on March 1, 1995 (60 FR 11054) that closed Federal waters off Alaska to fishing for scallops. The closure was intended to prevent unregulated and uncontrolled fishing for scallops in Federal waters during the period of time the North Pacific Fishery Management Council (Council) prepared a Fishery Management Plan for the Scallop Fishery off Alaska (FMP). Although the State of Alaska has implemented regulations to manage the scallop fishery off Alaska, these regulations can be applied by the State only to vessels registered under the laws of the State of Alaska (section 306 (a)(3) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act). Continued fishing for scallops by one or more vessels not registered with the State of Alaska poses significant conservation and management concerns that can be effectively addressed in a timely manner only through emergency closure of Federal waters off Alaska. Further background and descriptive information is contained in the preamble to the emergency rule published in the **Federal Register** March 1, 1995.

The Council has submitted a proposed FMP to the Secretary of Commerce for review and approval. Proposed regulations to implement the FMP were published in the **Federal Register** May 10, 1995 (60 FR 24822). Given the statutory review and implementation schedule for FMPs set out under sections 303 and 304 of the Magnuson Act, the Council requested NMFS to reimplement the emergency closure of Federal waters off Alaska for an additional 90 days as authorized under section 305(c)(3)(B) of the Magnuson Act. NMFS concurs that this period of time is necessary for the preparation and implementation of a Federal management program for scallops in Federal waters and reimplements this emergency rule for the maximum period of time authorized under the Magnuson Act.

Two letters of comments on the emergency rule as published in the **Federal Register** March 1, 1995, were received within the comment period and are summarized in the Response to Comments section, below. After review of the comments received, NMFS

determined that no change to the emergency rule is warranted.

This emergency interim rule has been determined to be not significant for purposes of E.O. 12866.

Response to Comments

Two letters of comments were received within the comment period that ended March 10, 1995. A summary of the comments and NMFS' response follows.

Comment 1. NMFS' implementation of the emergency rule was based upon a recommendation from the Council that was contrived at an illegally constituted teleconference meeting in violation of specific procedural requirements set forth in the Magnuson Act, 16 U.S.C. 1852(j).

Response. The Chairman of the North Pacific Fishery Management Council (Council) had very little time to respond to the emergency situation resulting from uncontrolled fishing for scallops off Alaska that precipitated the emergency rule. If necessary, NMFS was prepared to take action to promulgate emergency regulations without Council involvement to address the emergency in as timely manner as possible. The Council's ability to convene an emergency meeting and its recommendation to proceed with the emergency rule simply lent further indication of the widespread support for closure of Federal waters to protect scallop stocks.

Furthermore, NMFS conducted an independent review of the emergency action recommended by the Council. Based on the administrative record, NMFS concurred with the Council's determination that immediate closure of Federal waters off Alaska was necessary to address the scallop management void and to address concerns of localized overfishing of scallop stocks. NMFS followed the appropriate procedures and established the rational basis for the decision to implement the emergency rule. Any alleged procedural irregularities at the Council level did not affect the Agency's independent determination to proceed with this action.

Comment 2. Absolutely no justification exists for issuance of an emergency rule closing Federal waters off Alaska to fishing for scallops given that a single vessel operating outside Alaska State's regulatory authority could not cause overfishing of the scallop resource off Alaska.

Response. NMFS disagrees. Recent participation in the scallop fishery by at least one vessel not registered with the State of Alaska, contemplation by other vessel owners of fishing in Federal