

a list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future, NCP § 300.425(e)(3). Deletion of a site from the NPL does not affect the responsible party of liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: November 19, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region VII.

For reasons set out in the preamble 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the site “Baxter/Union Pacific Tie Treating, Laramie, WY.”

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96–98; FCC 99–266]

Implementation of Local Competition Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission analyzes petitioners' requests for reconsideration or clarification of the access requirements the Commission implemented pursuant to Section 224 of the Communications Act, as amended by the 1996 Telecommunications Act, including capacity expansion, the exercise of eminent domain, reservation of space, utilities' access obligations, worker

qualifications, the timing and manner of notification of modifications, allocation of modification costs, and state certification of access regulation. The general requirements are designed to give parties flexibility to reach agreements on access to utility-controlled poles, ducts, conduits and rights-of-way, without the need for regulatory intervention.

FOR FURTHER INFORMATION CONTACT:

Nancy Stevenson, Cable Services Bureau (202) 418–7200, TTY (202) 418–7172.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order on Reconsideration* in CC Docket No. 96–98, FCC 99–266, adopted October 20, 1999, and released October 26, 1999. In the *Order on Reconsideration*, the Commission analyzes petitioners' requests for reconsideration or clarification of the access requirements contained in the *First Report and Order* (61 FR 45476–01), implemented pursuant to the *Notice of Proposed Rulemaking* (61 FR 18311) and Section 224 of the Communications Act, as amended by the 1996

Telecommunications Act. The complete text of the *Order on Reconsideration* is available for inspection and copying during normal business hours in the FCC Reference Center, and may also be purchased from the Commission's copy contractor, International Transcription Service (“ITS, Inc.”), (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036. In addition, the complete text of the *Order on Reconsideration* is available on the Internet at <http://www.fcc.gov/Bureaus/Cable/Orders/1999/fcc99266.txt>.

Synopsis of the Order on Reconsideration

1. Section 224 of the Communications Act, as amended by the 1996 Act, imposes upon all utilities, including local exchange carriers (“LECs”), the duty to “provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.” The *Local Competition Order* adopted general rules and guidelines regarding access to utility-controlled poles, ducts, conduits, and rights-of-way. The *Order on Reconsideration* analyzes petitioners' requests for reconsideration or clarification of the access requirements of the *Local Competition Order*.

2. Key findings:

Access to electric transmission facilities: Use of any utility pole, duct, conduit, or right-of-way for wire communications triggers access to all

poles, ducts, conduits, and rights-of-way owned or controlled by a utility, including those not currently used for wire communications. To the extent an electric transmission facility is a ‘pole, duct, conduit or right-of-way,’ the facility would be subject to the access provisions of section 224.

Eminent domain: The right to exercise eminent domain is generally a matter of state law, exercised according to the varying limitations imposed by particular states. Neither the statute nor its legislative history offers convincing evidence that Congress intended for section 224 to compel a utility to exercise eminent domain. Accordingly, the *Order on Reconsideration* finds that section 224 does not create a federal requirement that a utility be forced to exercise eminent domain on behalf of third party attachers.

Capacity Expansion: The principle of nondiscrimination established by section 224(f)(1) requires a utility to take all reasonable steps to expand capacity to accommodate requests for attachment, just as it would expand capacity to meet its own needs. Before denying access based on a lack of capacity, a utility must explore potential accommodations in good faith with the party seeking access.

Reservation of Space: Attaching parties may use a utility's reserve space until the utility has an actual need for the space. A utility may recover the reserved capacity for its own use, based upon its actual need for the reserved capacity. Capacity that is allocated or planned for emergency purposes in a utility's contingency plan should not be subject to the access obligations of reserved capacity in general. A utility may reserve capacity to carry core utility communications capacity that is essential to the proper operations of the utility system.

Use of utility facilities for wire communications: Use of any utility pole, duct, conduit, or right-of-way for wire communications triggers access to all poles, ducts, conduits, and rights-of-way owned or controlled by the utility, including those not currently used for wire communications. In addition, internal communications are considered “wire communications” that trigger access obligations.

Use of non-utility employees: While utilities may ensure that individuals who work in proximity to electric lines to perform pole attachments and related activities meet utility standards for the performance of such work, utilities may not dictate the identity of the workers who will perform the work itself.

Notice of modifications: Under most circumstances, a utility should be able

to give 60-days' notice to attaching parties before facility modifications are undertaken, even in instances where a government or a government agency requires service to new customers in less than 60 days.

Allocation of costs: The statute does not require that an attaching entity receive compensation for modification costs it incurred that create excess rights-of-way that are later sold to other entrants by utility.

State certification: States that have previously certified their regulation of rates, terms and conditions of pole attachments need not re-certify in order to assert their jurisdiction over access. However, if a state that has not previously certified its authority over rates, terms and conditions wishes to begin to assert such jurisdiction, including jurisdiction over access pursuant to section 224(f), the state must certify in order to assert jurisdiction.

Ordering Clauses

3. Pursuant to sections 224, 251 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 224, 251 and 303(r), the Order on Reconsideration is *Adopted*.

4. Pursuant to section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and section 1.106 of the Commission's rules, 47 CFR. 1.106 (1995), that the petitions for reconsideration or clarification are *Denied in Part and Granted in Part*.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-31497 Filed 12-3-99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990720198-9307-02; I.D. 070799B]

RIN 0648-AM36

Fisheries of the Exclusive Economic Zone Off Alaska; Maximum Retainable Bycatch Percentages, Gulf of Alaska

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

ACTION: Final rule.

SUMMARY: NMFS issues a regulatory amendment that separates shorttraker

and rougeye (SR/RE) rockfish from the aggregated rockfish species group for purposes of calculating maximum retainable bycatch (MRB) and reduces the percentages for SR/RE rockfish in the Eastern Regulatory Area (ERA) of the Gulf of Alaska (GOA) groundfish fisheries. This action is necessary to slow the harvest rate of SR/RE thereby reducing the potential for overfishing. This action is intended to further the objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: Effective January 5, 2000.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action may be obtained from NMFS, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel or by calling the Alaska Region, NMFS, at 907-586-7228.

FOR FURTHER INFORMATION CONTACT:

Shane Capron, 907-586-7228 or shane.capron@noaa.gov.

SUPPLEMENTARY INFORMATION: Fishing for groundfish by U.S. vessels in the exclusive economic zone of the GOA is managed by NMFS according to the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Fishing by US vessels is governed by regulations implementing the FMP at 50 CFR part 679. General regulations governing Federal fisheries are also found at 50 CFR part 600.

Regulations at 50 CFR 679.20(e) establish MRB percentages for groundfish species or species groups that are closed to directed fishing. The MRB amount is calculated as a percentage of the species that are closed to directed fishing relative to the amount of other species retained on board the vessel that are open for directed fishing. The MRB percentages serve as a management tool to slow down the harvest rates of non-target species by limiting the amount that can be retained on board a vessel. This total also is used to minimize regulatory discard of non-target species when they are taken incidental to other directed fisheries because MRBs avoid or delay placing a species on "prohibited" status, which prohibits any retention. The MRB percentages reflect a balance between slowing harvest rates and minimizing the potential for undesirable discard. Although directed fishing for a species or species group may be prohibited

under 50 CFR 679.20(d)(1)(iii), fishermen may "top off" their retained catch of these species by deliberately targeting the incidental species up to the MRB amount.

This final rule makes the following regulatory changes: (1) Removes SR/RE rockfish from the GOA-wide aggregated rockfish species group for deep-water complex species (primarily Pacific ocean perch and sablefish), (2) Creates a new species group for SR/RE rockfish in the ERA of the GOA for deep-water complex species, and (3) Sets the new SR/RE rockfish MRB at 7 percent relative to deep-water complex species. This final rule does not change the MRB of 5 percent for SR/RE rockfish in the GOA-wide aggregated rockfish category relative to shallow-water complex species.

Additional information on this action is contained in the preamble to the proposed rule and the EA/RIR/FRFA. The proposed rule was published in the **Federal Register** on August 3, 1999 (64 FR 42080), and the public comment period ended on September 2, 1999. NMFS received no comments on the proposed rule and no changes from the proposed rule are made in this final rule.

Compliance Guide for Small Entities

In compliance with the Small Business Regulatory Enforcement Fairness Act of 1996, NMFS is publishing this paragraph as a compliance guide that explains how small entities must comply with the regulatory changes made by this final rule. This rule changes the maximum retainable amounts of SR/RE rockfish in the ERA of the GOA and affects all small entities that participate in groundfish fisheries in the ERA of the GOA and experience incidental catch of SR/RE rockfish. Affected fishermen should be aware that the MRB rates have changed for SR/RE in the ERA of the GOA. Affected fishermen must comply with the regulations concerning MRB rates at § 679.20(e) and Table 10 to part 679.

Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), determined that this final rule is necessary for the conservation and management of the groundfish fisheries of the GOA. The Regional Administrator also determined that this final rule is consistent with the Magnuson-Stevens Act and other applicable law. This action has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) that describes the impact this final rule will