

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 00-6]

Separate Pleadings for Petitions for Forbearance

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules to require that any petition for forbearance submitted under section 10(c) of the Communications Act, as amended (Act), 47 U.S.C. 160(c), be filed as a separate pleading and be captioned as a petition for forbearance under section 10(c). Adoption of this rule will help ensure that the Commission and all interested parties have the opportunity to consider fully the issues raised in petitions for forbearance within the statutory period for Commission consideration of such petitions.

DATES: Effective March 16, 2000.

FOR FURTHER INFORMATION CONTACT: Joanne F. Wall, Office of General Counsel, (202) 418-1720.

SUPPLEMENTARY INFORMATION:

1. Under section 10(a) of the Act, the Commission is required to forbear from applying any regulation or provision of the Act to a telecommunications carrier or service, or class of telecommunications carriers or services, if it determines that: (1) Enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest. 47 U.S.C. 160(a). Under section 10(c) of the Act, any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that it exercise its forbearance authority under section 10 with respect to that carrier or carriers, or any service offered by that carrier or carriers. Petitions for forbearance are deemed granted if the Commission does not deny the petition for failure to meet the requirements for forbearance under section 10(a) within one year after receiving the petition, unless the

Commission extends the one-year period. The Commission may extend the initial one-year period by an additional 90 days if it finds that an extension is necessary to meet the requirements of section 10(a) of the Act. 47 U.S.C. 160(c).

2. The Commission has received numerous forbearance requests under section 10(c). Many of these forbearance requests have been combined with other requests for Commission action and have not been identified as section 10(c) forbearance petitions in the captions for such pleadings. As a result, it appears that a significant number of these requests may not have been readily identifiable by the Commission staff and interested parties as section 10(c) forbearance petitions. Indeed, it has sometimes been unclear whether parties expected that a reference to section 10 forbearance would be treated as a section 10(c) petition, *e.g.*, when section 10 is raised as an alternative to the party's primary request. Given the statutory deadline for Commission action on section 10(c) forbearance petitions, the Commission is concerned that the Commission and interested parties may not have sufficient opportunity to consider these requests in a timely manner if they are not clearly identifiable as section 10(c) forbearance petitions. Section 10(c) forbearance requests raise important issues involving regulatory flexibility and competitive market conditions. Thus, the Commission adopts § 1.53 of the rules to require that section 10(c) forbearance petitions be filed as separate pleadings, clearly identified in the caption as a petition for forbearance filed under section 10(c) of the Act. Any request for forbearance that is not filed as a separate pleading and is not clearly identified as a section 10(c) petition for forbearance in the caption will not be deemed a section 10(c) petition and thus will not trigger the statutory deadline. 47 U.S.C. 160(c).

3. Accordingly, pursuant to sections 4(i), 4(j), 10, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160 and 303(r), § 1.53 of the rules and regulations of the Federal Communications Commission, 47 CFR 1.53, is adopted as set forth, to be effective March 16, 2000. The Order was adopted on January 6, 2000 by the Commission and released on January 19, 2000.

4. Because the rule herein is a rule of agency procedure and practice, it may be adopted without affording prior notice and opportunity for public comment. *See* 5 U.S.C. 553(b)(3)(A).

List of Subjects in 47 CFR Part 1

Practice and procedure.

Federal Communications Commission.
Magalie Roman Salas,
Secretary.

Rule Change

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309.

2. Section 1.53 is added to read as follows:

§ 1.53 Separate pleadings for petitions for forbearance.

In order to be considered as a petition for forbearance subject to the one-year deadline set forth in 47 U.S.C. 160(c), any petition requesting that the Commission exercise its forbearance authority under 47 U.S.C. 160 shall be filed as a separate pleading and shall be identified in the caption of such pleading as a petition for forbearance under 47 U.S.C. 160(c). Any request which is not in compliance with this rule is deemed not to constitute a petition pursuant to 47 U.S.C. 160(c), and is not subject to the deadline set forth therein.

[FR Doc. 00-3430 Filed 2-14-00; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990713189-9335-02; I.D. 060899B]

RIN 0648-AK79

Fisheries of the Northeastern United States; Spiny Dogfish Fishery Management Plan

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

ACTION: Final rule; delay of effectiveness.

SUMMARY: NMFS delays the effective date of a final rule published January 11, 2000, from February 10, 2000, until March 15, 2000. The final rule will