

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 79

[CG Docket No. 05–231; DA 10–253]

### Closed Captioning of Video Programming

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; waiver of requirements.

**SUMMARY:** In this document, the Commission, via the Consumer and Governmental Affairs Bureau (Bureau), waives in part the requirement that video programming distributors (VPDs) place contact information for the pursuit of immediate closed captioning concerns and the filing of closed captioning complaints in telephone directories. Some VPDs do not use telephone directories to communicate with the public, and therefore the Bureau waives the rule in such situations, *so long as* the VPD makes the contact information available on its Web site or on billing statements. The waiver thus balances the goal of ensuring that consumers are readily able to locate VPD contact information, with preventing unduly burdensome compliance with the telephone directories provisions for VPDs that do not use telephone directories to communicate with the public.

**DATES:** This document is October 4, 2010. The provision in 47 CFR 79.1(i)(1) and (2), published at 74 FR 1594, January 13, 2009, requiring video programming distributors to place contact information required by this section in local telephone directories is waived beginning February 19, 2010, for certain video programming distributors. FCC will publish a document in the **Federal Register** to lift the waiver.

**FOR FURTHER INFORMATION CONTACT:** Amelia Brown, Consumer and Governmental Affairs Bureau, Disability Rights Office at (202) 418–2799 (voice), (202) 418–7804 (TTY), or e-mail at [Amelia.Brown@fcc.gov](mailto:Amelia.Brown@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Bureau's Order, DA 10–253, *Closed Captioning of Video Programming*, CG Docket No. 05–231, adopted February 16, 2010, and released February 16, 2010. The full text of DA 10–253 and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554.

DA 10–253 and copies of subsequently filed documents in this matter also may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at its Web site <http://www.bcpweb.com> or by calling 1–800–378–3160.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). DA 10–253 also can be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/caption.html>.

### Synopsis

1. On November 7, 2008, the Commission released *Closed Captioning of Video Programming, Closed Captioning Requirements for Digital Television Receivers*, CG Docket No. 05–231, ET Docket No. 99–254, Declaratory Ruling, Order, and Notice of Proposed Rulemaking, FCC 08–255, (*2008 Closed Captioning Order*), published at 74 FR 1594, January 13, 2009, which, among other things, requires VPDs to make available two types of contact information—information for the receipt and handling of immediate closed captioning concerns by consumers, and information for written closed captioning complaints. The Commission directed VPDs to include this information on their Web sites, if the VPD has a Web site, in telephone directories, and in billing statements, if the VPD issues billing statements to subscribers. DISH Network L.L.C., a national provider of direct broadcast satellite service, petitioned the Commission for relief from the obligation to place contact information in telephone directories, stating that it does not currently directly advertise or otherwise place commercial listings in local telephone directories, and does not have direct relationships with publishers of local telephone directories. DISH Network requested that the Bureau clarify that a VPD is not required to place advertisements or listings in telephone directories in order to provide closed captioning information if the VPD does not otherwise use telephone directories as a direct means of communicating with viewers.

2. Because the “clarification” that DISH Networks seeks does not appear to be supported by the language of the Commission's *2008 Closed Captioning*

*Order*, the Bureau declines to make it. However, the Bureau finds good cause to grant a limited waiver of the telephone directories provisions of amended 47 CFR 79.1. While 47 CFR 79.1(i) is designed to ensure that consumers are readily able to locate contact information for the pursuit of immediate closed captioning concerns or the filing of closed captioning complaints, on balance the Bureau is persuaded that compliance with the telephone directories provisions could be unduly burdensome where a company does not already use telephone directories, particularly for a nationwide company such as DISH Network. Therefore, the Bureau waives amended 47 CFR 79.1 to the extent that it requires VPDs to place the required contact information in local telephone directories in which the VPD does not itself directly advertise or otherwise place commercial listings, *so long as* the VPD makes the contact information available on its Web site or in billing statements.

3. For purposes of this waiver, the Bureau defines commercial listing to include any paid advertisement or other paid listing. This might include, for example, a paid expanded listing that contains more than merely name, location, and telephone number, or a listing in a larger, bolded, or highlighted font as compared to the standard listing, or the listing of a toll free (rather than local) number. In instances where a VPD has already contracted for a paid advertisement or other paid listing, DISH Network's concern that it would have to establish new relationships with directory publishers is inapplicable, and there is therefore no reason to waive the telephone directory requirement in such situations.

### Congressional Review Act (CRA)

On December 5, 2008, OMB concurred that the Order adopting 47 CFR 79.1(i), document FCC 08–255, published at 74 FR 1594, January 13, 2009, was a non-major action pursuant to the *CRA*. Document DA 10–253 merely waives a specific provision of 47 CFR 79.1(i) and, as such, is not subject to the *CRA*.

### Ordering Clause

Pursuant to sections 4(i) and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 613, 47 CFR 1.3, and the authority delegated pursuant to 47 CFR 0.141 and 0.361, 47 CFR 79.1 (i)(1) and (i)(2) *is waived* to the extent described herein.

Federal Communications Commission.

**Mark Stone,**

*Deputy Chief, Consumer and Governmental Affairs Bureau.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 090428799-9802-01]

RIN 0648-BA28

#### Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Inseason Adjustments to Fishery Management Measures

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

**ACTION:** Final rule; inseason adjustments to biennial groundfish management measures; request for comments.

**SUMMARY:** This final rule makes inseason adjustments to commercial fishery management measures for several groundfish species taken in the U.S. exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), are intended to allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks and to prevent exceeding 2010 optimum yields.

**DATES:** Effective 0001 hours (local time) October 1, 2010. Comments on this final rule must be received no later than 5 p.m., local time on November 3, 2010.

**ADDRESSES:** You may submit comments, identified by RIN 0648-BA28, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>.
- *Fax:* 206-526-6736, Attn: Gretchen Hanshew.
- *Mail:* William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115-0070, *Attn:* Gretchen Hanshew.

*Instructions:* No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be

posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Hanshew (Northwest Region, NMFS), 206-526-6147, *fax:* 206-526-6736, [gretchen.hanshew@noaa.gov](mailto:gretchen.hanshew@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register's Web site at <http://www.gpoaccess.gov/fr/index.html>. Background information and documents are available at the Pacific Fishery Management Council's (the Council or PFMC) Web site at <http://www.pcouncil.org/>.

##### Background

On December 31, 2008, NMFS published a proposed rule to implement the 2009-2010 specifications and management measures for the Pacific Coast groundfish fishery (73 FR 80516). The final rule to implement the 2009-2010 specifications and management measures for the Pacific Coast Groundfish Fishery was published on March 6, 2009 (74 FR 9874). This final rule was subsequently amended by inseason actions on April 27, 2009 (74 FR 19011), July 6, 2009 (74 FR 31874), October 28, 2009 (74 FR 55468), February 26, 2010 (75 FR 8820), May 4, 2010 (75 FR 23620), July 1, 2010 (75 FR 38030), July 16, 2010 (75 FR 41386), and August 23, 2010 (75 FR 51684). Additional changes to the 2009-2010 specifications and management measures for petrale sole were made in two final rules: on November 4, 2009 (74 FR 57117), and December 10, 2009 (74 FR 65480). NMFS issued a final rule in response to a duly issued court order on July 8, 2010 (75 FR 39178). These specifications and management measures are at 50 CFR part 660, subpart G.

Changes to the groundfish management measures implemented by this action were recommended by the Council, in consultation with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and

California, at its September 10-16, 2010, meeting in Boise, Idaho. The Council recommended adjusting the groundfish management measures to respond to updated fishery information and other inseason management needs. These changes include increases to bi-monthly cumulative limits in the limited entry trawl commercial fisheries off Washington, Oregon, and California and reductions to daily trip limits (DTL) for sablefish in the limited entry fixed gear and open access commercial fisheries south of 36° N. lat. The increases to cumulative limits are intended to allow additional harvest opportunities for species for which catch estimates through the end of the year are lower than anticipated. The changes to sablefish DTL limits are intended to prevent higher than anticipated sablefish catches from exceeding the 2010 sablefish optimum yield (OY).

##### Limited Entry Non-Whiting Trawl Fishery

At their September 2010 meeting, the Council received new data and analyses on the catch of groundfish in the limited entry trawl fishery.

Catches of several trawl target species were tracking behind 2010 projections made at the Council's June 2010 meeting, or were projected to be below the 2010 OYs if no adjustments to cumulative limits are made. At their September meeting, the Council considered the most recently available data from the Pacific Fishery Information Network (PacFIN). These data, dated August 18, 2010, indicated the total catch projections through the end of the year for sablefish, longspine thornyheads, shortspine thornyheads, Dover sole, arrowtooth flounder, slope rockfish and other flatfish were lower than anticipated.

The Council considered modest increases to bi-monthly cumulative limits for these species for which the catch is projected to be lower than anticipated in order to meet the Pacific Coast Groundfish FMP objective of achieving, to the extent possible, but not exceeding, OYs of target species. A two-month limit can be raised in the middle of the period, therefore, this increase would become effective during the two-month cumulative limit, on October 1.

Based on the considerations outlined above, the Council recommended and NMFS is implementing the following changes to cumulative limits in the limited entry non-whiting trawl fishery on October 1, 2010 through the end of the year: increase the sablefish trip limits taken with large and small footrope gear North of 40°10' N. lat. and for all trawl gears South of 40°10' N. lat.