

rule requiring each state to establish at least three geographic rate zones for unbundled network elements and interconnection. The Commission issues the stay to afford the states an opportunity to bring their own rules into compliance with the Commission's rule, in light of the U.S. Supreme Court's recent decision in *AT&T v. Iowa Utils. Bd.*

**DATES:** Effective May 7, 1999, 47 CFR 51.507(f), published at 61 FR 45476 (August 29, 1996), is stayed indefinitely. The Commission will publish in the **Federal Register** at a later date the date that the stay expires.

**ADDRESSES:** The entire file is available for inspection and copying weekdays from 9:00 a.m. to 4:30 p.m. in the Commission's Reference Center, 445 Twelfth Street SW, Washington, DC 20554. Copies may be purchased from the Commission's duplicating contractor, ITS Inc., 1231 Twentieth St., NW, Washington, DC 20036, (202) 857-3800.

**FOR FURTHER INFORMATION CONTACT:** Neil Fried, Common Carrier Bureau, Competitive Pricing Division, (202) 418-1530; TTY: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** In the *Local Competition Order*, the Commission promulgated certain rules to implement section 251 of the Communications Act of 1934, as amended. 61 FR 45476; 11 FCC Rcd 15499 (1996). One such rule, section 51.507(f), requires each state commission to "establish different rates for [interconnection and unbundled network elements] in at least three defined geographic areas within the state to reflect geographic cost differences." 47 CFR 51.507(f). The Commission released the *Local Competition Order* on August 8, 1996. A number of parties, including incumbent LECs and state commissions, appealed the order shortly thereafter. The U.S. Court of Appeals for the Eighth Circuit stayed the effectiveness of the section 251 pricing rules on September 27, 1996. *Iowa Utils. Bd. v. FCC*, 96 F.3d 1116 (8th Cir. 1996) (per curiam) (temporarily staying the *Local Competition Order* until the filing of the court's order resolving the petitioners' motion for stay). See also *Iowa Utils. Bd. v. FCC*, 109 F.3d 418 (8th Cir.) (dissolving temporary stay and granting petitioners' motion for stay, pending a final decision on the merits of the appeal), *motion to vacate stay denied*, 117 S. Ct. 429 (1996). On July 18, 1997, the Court of Appeals vacated these rules, including Section 51.507(f) on deaveraging, on the grounds that the Commission lacked jurisdiction. *Iowa*

*Utils. v. FCC*, 120 F.3d 753, 800 n.21, 819 n.39, 820 (8th Cir. 1997). On January 25, 1999, however, the U.S. Supreme Court reversed the Eighth Circuit's decision with regard to the Commission's section 251 pricing authority, and remanded the case to the Eighth Circuit for proceedings consistent with the Supreme Court's opinion. *AT&T v. Iowa Utils. Bd.*, 119 S. Ct. 721, 733, 738 (1999).

In this Order, the Commission stays the effectiveness of section 51.507(f) until six months after the Commission issues its order in CC Docket No. 96-45 finalizing and ordering implementation of high-cost universal service support for non-rural LECs under section 254 of the Act. The six-month period shall run from the Commission's release of that order. Neither petitions for reconsideration nor appeals of that order shall have any bearing on the length of the stay.

The Commission found good cause to issue such a stay. See 47 CFR 1.3 (allowing the Commission to suspend its rules for good cause). Because of the Eighth Circuit's decisions, the section 251 pricing rules were not in effect for approximately two-and-a-half years. During that time, not all states established at least three deaveraged rate zones for unbundled network elements and interconnection. Some have taken no action yet regarding deaveraging; others have affirmatively decided to adopt less than three zones. A temporary stay will ameliorate the disruption that would otherwise occur, and will afford the states an opportunity to bring their rules into compliance with section 51.507(f).

A number of parties argued that the Commission made the appropriate policy decisions regarding deaveraging when it issued the *Local Competition Order*, and that implementation should not be further postponed. Some contended that it may be appropriate for the Commission to give states a reasonable amount of time to implement conforming rules, but argue that any "significant" delay is unwarranted. The Commission concluded that six months following the Commission's order in CC Docket No. 96-45 represents an appropriate length for the stay. State and federal regulators now have the benefit of not only a variety of court decisions, but also nearly three more years of experience and data. The stay will allow the states and the Commission a sufficient, but not excessive, amount of time to bring their rules into compliance in a manner coordinated with reform of universal service.

The Commission recognized the possibility that the three-zone rule may not be appropriate in all states. In some states, for instance, local circumstances may dictate the establishment of only two deaveraged rate zones. The Commission stated that it intends to address such situations on a case-by-case basis. States may file waiver requests with the Commission seeking relief from the general rule in light of their particular facts and circumstances. See 47 CFR 1.3 (allowing the Commission to waive any provision of its rules based on a petition if good cause is shown).

#### List of Subjects in 47 CFR Part 51

Communications common carriers, Deaveraged rate zones, Interconnection, Local competition, Pricing of elements, Telecommunications, Unbundled network elements.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 990304062-9062-01; I.D. 061099B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the second seasonal apportionment of pollock total allowable catch (TAC) in this area.

**DATES:** Effective 1200 hours, Alaska local time (A.L.T.), June 11, 1999, until 1200 hours, A.L.T., September 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907-486-6919 or tom.pearson@noaa.gov.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North

Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of pollock TAC is equal to 20 percent of the annual TAC (§ 679.20(a)(5)(ii)(C)). The pollock TAC in Statistical Area 620 was established by the Final 1999 Harvest Specifications for Groundfish (64 FR 12094, March 11, 1999) as 38,840 metric tons (mt) for the entire 1999 fishing year. In accordance with § 679.20(a)(5)(ii)(C) the second seasonal apportionment of pollock TAC in the Statistical Area 620 is 7,768 mt.

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal

apportionment of pollock TAC in Statistical Area 620 has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 7,568 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

#### **Classification**

This action responds to the second seasonal TAC limitations and other restrictions on the fisheries established in the final 1999 harvest specifications for groundfish in the GOA. It must be

implemented immediately to prevent overharvesting the second seasonal apportionment of pollock TAC in Statistical Area 620 of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: June 10, 1999.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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