

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[CC Docket Nos. 96–45 and 97–21; FCC 00–65]

#### Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document concerning the Federal-State Joint Board on Universal Service amends a procedural rule regarding the time period during which the Commission must issue a written decision in response to a request for review of a decision issued by the Schools and Libraries Division of the Universal Service Administrative Company.

**DATES:** Effective March 8, 2000.

**FOR FURTHER INFORMATION CONTACT:** Linda Chang, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of a Commission's Order in CC Docket Nos. 96–45 and 97–21 released on March 1, 2000. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW, Washington, DC, 20554.

1. In this Order, we amend a procedural rule regarding the time period during which the Commission must issue a written decision in response to a request for review of a decision issued by the Schools and Libraries Division of the Universal Service Administrative Company (USAC or Administrator). Section 54.724 of the Commission's rules provides that, when a request for review is properly before the Common Carrier Bureau (Bureau) or the Commission, a written decision must be issued within ninety days unless the time period for taking action on the request for review is extended. In this Order, we amend that rule to make clear that the Bureau may extend, for up to ninety days, the time period for taking action on a request for review of an Administrator's decision that is pending before the Bureau or the Commission pursuant to § 54.724 of the Commission's rules. We also clarify that the Commission may extend the time period for taking action on a pending request for review of an Administrator's decision that is before

either the Bureau or the Commission, but the Commission is not limited to a maximum 90-day extension period. We believe this procedural amendment will facilitate our administrative processes. Accordingly, as set forth, we amend § 54.724 of the Commission's rules to clarify that the Bureau may extend, for up to ninety days, the time period for taking action on requests for review of the Administrator's decisions that are before either the Bureau or the Commission.

#### Ordering Clauses

2. The authority contained in sections 1–4, 201–205, 218–220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, this Order is adopted.

3. The authority contained in sections 1–4, 201–205, 218–220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, is revised as set forth.

4. This action is exempt from the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. section 553, because it affects only rules of agency procedure or practice.

5. Because this action involves an internal procedural matter not affecting the substantive rights of any entity, the rule change set forth is effective immediately upon publication in the **Federal Register**.

#### List of Subjects 47 CFR Part 54

Universal service.

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

#### Rule Changes

Part 54 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

**Authority:** 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Section 54.724 is revised to read as follows:

#### § 54.724 Time periods for Commission approval of Administrator decisions.

(a) If the Common Carrier Bureau does not take action within ninety (90) days upon appeals that are properly before it, a decision issued by the Administrator shall be deemed approved. The Commission may extend the time period for taking action on a request for review of an Administrator decision. The Common Carrier Bureau also may extend the time period for taking action

on a request for review of an Administrator decision for a period of up to ninety days.

(b) The Commission shall issue a written decision in response to a request for review of an Administrator decision that involves novel questions of fact, law or policy within ninety (90) days. The Commission may extend the time period for taking action on the request for review of an Administrator decision. The Common Carrier Bureau also may extend the time period for taking action on a request for review of an Administrator decision for a period of up to ninety days.

[FR Doc. 00–5479 Filed 3–7–00; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

[MM Docket No. 92–264; FCC 00–12]

#### Implementation of Section 11(c) of the Cable Television Consumer Protection and Competition Act of 1992; Horizontal Ownership Limits

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; reconsideration of stay.

**SUMMARY:** This document announces that, on its own motion, the Commission reconsiders the conditions under which it will lift its voluntarily-imposed stay of the horizontal ownership rules, 47 CFR 76.503, adopted on October 8, 1999.

**DATES:** 47 CFR 76.503 (a) through (f) as revised and stayed at 64 FR 67198 (Dec. 1, 1999) continue to be stayed until the U.S. Court of Appeals for the District of Columbia Circuit issues a decision upholding the constitutionality of Section 613(f)(1)(A) of the Federal Communications Act, as amended. The FCC will publish a document in the **Federal Register** announcing the action of the Court and the date affected parties must comply with the regulations.

**FOR FURTHER INFORMATION CONTACT:** Darryl Cooper at (202) 418–7200 or via Internet at [dacooper@fcc.gov](mailto:dacooper@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the *Commission's Order on Reconsideration* (Order) in MM Docket No. 92–264; FCC 00–12, adopted January 12, 2000, and released January 19, 2000. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC 20554, or

may be purchased from the Commission's copy contractor, International Transcription Service ("ITS"), (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036, or may be reviewed via Internet at <http://www.fcc.gov/csb/>. For copies in alternative formats such as Braille, audio cassette or large print, please contact Sheila Ray at ITS.

#### Synopsis of Order on Reconsideration

1. On its own motion, the Commission reconsiders the conditions under which it will lift its voluntarily-imposed stay of the horizontal ownership rules, 47 CFR 76.503. These rules were adopted and stayed in part on October 8, 1999 at 64 FR 67198 (Dec. 1, 1999).

2. In the *Second Order on Reconsideration* in this proceeding, the Commission continued its stay of the effective date of the horizontal ownership rules pending a decision by the U.S. Court of Appeals for the District of Columbia Circuit on challenges to the horizontal ownership rules and Section 613(f)(1)(A) of the Communications Act, as amended, 47 U.S.C. 533(f)(1)(A). The Commission decided that parties exceeding the horizontal limit must come into compliance with the rules within 60 days of a judicial decision upholding the rules and the statute.

3. The statute was challenged in the U.S. District Court, and the rules were challenged in the U.S. Court of Appeals for the District of Columbia Circuit. In 1993, the district court held the statute unconstitutional. The district court also decided that, because "there is substantial ground for difference of opinion" as to the constitutionality of the underlying statute, it would stay its proceedings and the issuance of any relief to the plaintiffs pending appeal. In August 1996, the D.C. Circuit Court consolidated the appeal of the district court decision and the D.C. Circuit Court challenge. The D.C. Circuit Court held the consolidated proceedings in abeyance pending the Commission's decision on the petitions for reconsideration of the rules. Once the Commission issued the *Second Order on Reconsideration*, the D.C. Circuit Court lifted its stay on its consideration of the consolidated proceedings. The appeal is currently pending.

4. In the *Third Report and Order* in this proceeding, the Commission again declined to lift its stay of the horizontal ownership rules. In fact, the Commission, on its own motion, held that the horizontal ownership rules will become effective immediately upon the issuance of a decision upholding the rules and the statute, and that affected

parties must come into compliance within 180 days after the court issues its mandate. The Commission reasoned that 180 days, rather than 60 days, was a more reasonable amount of time for affected parties to dispose of property necessary to come into compliance with the rules.

5. On November 2, 1999, the D.C. Circuit issued an order deconsolidating the challenge to the rules and the statute. The court allowed the challenge to the statute to proceed, but held the challenge to the rules in abeyance.

6. The Commission originally stayed its rules in deference to the district court's decision and to give the D.C. Circuit Court an opportunity to review that decision. Now that the challenge to the rules has been separated from the challenge to statute, it is no longer necessary to maintain the stay while the challenge to the rules remains in abeyance or otherwise under consideration by the court. Instead, the Commission holds that the horizontal ownership rules will become effective upon the issuance of a decision upholding the statute. Affected parties must come into compliance with the rules within 180 days following the issuance of that decision.

7. The Commission has decided to use the date on which the court decision issues, not the date on which the mandate issues, as the triggering event for affected parties to come into compliance with the rules. Thus, affected parties are expected to come into compliance with these rules within 180 days after the issuance of a court decision upholding the statute. The Commission finds that requiring affected parties to come into compliance with its rules within 180 after the issuance of a court decision provides more certainty to the public and affected parties. There is potentially a wide variance between the date a decision issues and the date the mandate issues. The Commission finds that the issuance date of the court decision is a superior benchmark for lifting the stay and requiring parties to come into compliance with the rules.

8. Accordingly, it is Ordered that the Commission's horizontal ownership rules are stayed until the U.S. Court of Appeals for the D.C. Circuit issues a decision upholding the constitutionality of Section 613(f)(1)(A) of the Act, as amended, 47 U.S.C. 533(f)(1)(A). Parties not in compliance with the rules on the date the U.S. Court of Appeals for the D.C. Circuit issues such a decision must come into compliance within 180 days.

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

[FR Doc. 00-5410 Filed 3-7-00; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 970930235-7235-01; I.D. 030300A]

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

**ACTION:** Closure.

**SUMMARY:** NMFS closes the commercial hook-and-line fishery for king mackerel in the exclusive economic zone (EEZ) in the Florida west coast subzone. This closure is necessary to protect the overfished Gulf group king mackerel resource.

**DATES:** Effective 12:01 a.m., local time, March 6, 2000, through June 30, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mark Godcharles, telephone: 727-570-5305, fax: 727-570-5583, e-mail: Mark.Godcharles@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on February 19, 1998 (63 FR 8353), NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the Florida west coast subzone of 1.17 million lb (0.53 million kg). That quota was further divided into two equal quotas of 585,000 lb (265,352 kg) for