

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 26, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not

be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 14, 2009.

**J. Scott Gordon,**

*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart PP—South Carolina

■ 2. Section 52.2120(e) is amended by revising the entry for the "Cherokee County 110(a)(1) Maintenance Plan for the 1997 8-hour ozone standard" to read as follows:

#### § 52.2120 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

#### EPA-APPROVED SOUTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Explanation
* * * * *			
Cherokee County 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard ....	12/13/2007	7/31/09, 74 FR 26099.	.....

\* \* \* \* \*

[FR Doc. E9-31172 Filed 1-22-10; 8:45 am]

**BILLING CODE 6560-50-P**

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[MB Docket Nos. 07-294, 06-121, 02-277, 04-228; MM Docket Nos. 01-235, 01-317, 00-244; DA 09-2618]

#### Promoting Diversification of Ownership in Broadcast Services; Suspension of Filing Date

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; suspension of compliance date.

**SUMMARY:** This Order suspends the requirement that Form 323, *Ownership*

*Report for Commercial Broadcast Stations*, be filed biennially by the January 11, 2010 filing deadline and grants an extension of time to file the form once the form is available again for biennial filings, of at least 90 days from that date. We will announce the new filing deadline in a subsequently-released document. This temporary suspension will permit us to investigate what changes can be made to the form to reduce the time required to complete it and to lessen any unanticipated burdens in this regard without undermining the completeness, quality, usefulness, and aggregability of the data. **DATES:** The compliance date for the final rule published at 74 FR 56135 on October 30, 2009, which amended the requirement that Form 323 must be electronically filed no later than November 1, 2009, and every two years thereafter, is suspended indefinitely. The Commission will publish a

document in the **Federal Register** announcing the new compliance date.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Mania Baghdadi, Judith Herman, or Kristi Thompson, Industry Analysis Division, Media Bureau, at (202) 418-2330.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Media Bureau's Order adopted on December 23, 2009. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs>). The complete text may be purchased from the Commission's copy

contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

### Summary of Order

1. On December 18, 2009, a number of counsel and legal assistants to various broadcasters and broadcaster organizations (the "Broadcast Counsel") filed an Ex Parte Notice and Request for Relief, asking that the Media Bureau extend the time to file Form 323 and adopt other changes to FCC Form 323, including changing Section II-B Question 3(c) of the form to allow filers to respond by uploading machine-readable data instead of requiring manual data entry of the responses to the question.<sup>1</sup> The Broadcast Counsel also asked that filing of the form be suspended until improvements are made to the form. By this Order, the Media Bureau suspends the requirement that Form 323 be filed biennially by the January 11, 2010 filing deadline. The Bureau will also grant an extension of time to file the form once the form is available again for biennial filings, of at least 90 days from that date, and the Bureau will announce the new filing deadline in a subsequently-released Public Notice. The "as of" date, November 1, 2009, will remain the same.

2. On April 8, 2009, the Commission adopted a *Report and Order and Fourth Further Notice of Proposed Rulemaking* in the above-captioned proceeding revising filing requirements for FCC Form 323, the broadcast Ownership Report.<sup>2</sup> Among other things, the *323 Order* substituted a uniform biennial filing deadline for the current system of rolling filing deadlines that are tied to a station's renewal anniversary. Pursuant to these new requirements, all commercial full-power AM, FM, TV, LPTV, and Class A stations, as well as entities with attributable interests in them, were required to file the revised FCC Form 323 on or before January 11, 2010, with information current as of November 1, 2009, and to file biennially thereafter.<sup>3</sup>

3. In their Request, the Broadcast Counsel note that they have been working diligently to compile the information needed to complete Form 323 and to enter the data so as to file the form by the January 11, 2010 filing deadline. However, they note that they have experienced delays in completing the form because of the large amounts of data required to be entered for entities with complex ownership structures and because of technical problems working with the form on CDBS. In particular, they note that fully responding to Question 3(c) of Section II-B of the form requires large amounts of time for entities that have moderately complex ownership structures. Accordingly, they request that the Commission allow filers to respond to that question by uploading a machine-readable file rather than having to enter the data needed for the response manually. According to the Broadcast Counsel, if the current deadline is not extended, "many Forms will be incomplete, inaccurate or will not be filed at all because of time constraints and Form failures."

4. The Bureau finds that good cause has been shown and that it would serve the public interest to suspend the current January 11, 2010 filing deadline.<sup>4</sup> The Bureau will temporarily suspend the ability to start a new biennial Form 323 during this interim suspension period but will allow filers to complete and file forms that they have already started should they wish to do so. This temporary suspension will permit us to investigate what changes can be made to the form to reduce the time required to complete it and to lessen any unanticipated burdens in this regard without undermining the completeness, quality, usefulness, and aggregability of the data. Once these changes have been made, the Bureau will again enable new biennial filings and will release a Public Notice with a new extended filing deadline. The new

filing deadline will be at least 90 days from the date that the form is made available for new biennial filings.<sup>5</sup> The "as of" date will remain the same, November 1, 2009, and will not be suspended or changed. During the interim biennial suspension period, the Bureau will not suspend non-biennial filings of Form 323 that are required by Section 73.3615 of the Commission's rules and will require that these continue to be filed by the deadlines enumerated in that rule.<sup>6</sup>

5. *Congressional Review Act.* The Commission will not send a copy of the Order pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the rule was previously adopted and subject to a CRA submission at that juncture.

6. *Paperwork Reduction Act Analysis.* Document DA 09-2618 does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

7. Accordingly, *it is ordered*, that pursuant to authority under Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), authority delegated to the Media Bureau pursuant to Sections 0.61, 0.204 and 0.283 of the Commission's rules, 47 CFR 0.61, 0.204, 0.283, and authority delegated to the Media Bureau by the Commission's Report and Order and Memorandum Opinion and Order in this proceeding,<sup>7</sup> the Bureau grants the Ex Parte Notice and Request for Relief to the extent described in this Order.

8. *It is further ordered*, that pursuant to authority under Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), authority delegated to the Media Bureau pursuant to Sections 0.61, 0.204 and 0.283 of the Commission's rules, 47 CFR 0.61, 0.204, 0.283, and authority delegated to the Media Bureau by the Commission's Report and Order and Memorandum Opinion and Order in this proceeding, we dismiss as moot and without

<sup>1</sup> "MB Docket No. 07-294, Ex Parte Notice and Request for Relief," filed December 18, 2009 (the "Request"). The Request was signed by representatives of 14 law firms and the National Association of Broadcasters. In addition, on December 21, 2009, Simmons Media Group filed a letter in support of the Request. Simmons also asked that the form be revised to allow multiple licensees to be identified (through sub-forms) in response to Section I Question 7.

<sup>2</sup> *Report and Order and Fourth Further Notice of Proposed Rulemaking*, MB Docket No. 07-294, 24 FCC Rcd 5896 (2009) ("323 Order").

<sup>3</sup> *323 Order*, 24 FCC Rcd at 5902-05, 5908-09 paras. 12-15, 22. For this 2009 biennial filing period, the Media Bureau previously extended the "as of" date to November 1, 2009 and the biennial filing deadline to January 11, 2010. See Public

Notice, Media Bureau Extends the Biennial Filing Deadline for the Commercial Broadcast Ownership Report Form (Form 323), DA 09-2457 (rel. Nov. 23, 2009); Promoting Diversification in the Broadcasting Services, *Order*, DA 09-2165 (rel. Oct. 2, 2009). See also Public Notice, Media Bureau Announces 2009 Biennial Filing Deadline For Commercial Broadcast Ownership Report (Form 323), DA 09-2275 (rel. Oct. 30, 2009). For future biennial filings, the "as of" date is October 1 and the filing date is November 1 of the applicable filing year.

<sup>4</sup> In light of the filing extension, the Bureau dismisses as moot, Fletcher, Heald & Hildreth, PLC's ("FHH") November 16, 2009 Motion for Stay, which asked the Commission to stay, or otherwise hold in abeyance, the initial December 15, 2009 deadline for filing biennial broadcast ownership reports. The Bureau dismisses the motion without prejudice.

<sup>5</sup> The Bureau will not require those who have already completed and filed their 2009 biennial Ownership Report to file again.

<sup>6</sup> See 47 CFR 73.3615.

<sup>7</sup> See *323 Order*, 24 FCC Rcd at 5915 para. 51; Memorandum Opinion & Order and Fifth Notice of Proposed Rulemaking, MB Docket No. 07-294, FCC 09-192 (rel. Oct. 16, 2009).

prejudice Fletcher, Heald & Hildreth, PLC's Motion for Stay.

**William T. Lake,**

*Chief, Media Bureau, Federal Communications Commission.*

[FR Doc. 2010-1246 Filed 1-22-10; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0810141351-9087-02]

RIN 0648-XT97

#### Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closures and openings.

**SUMMARY:** NMFS is prohibiting directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI) for vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2010 A season total allowable catch (TAC) of Atka mackerel in these areas for vessels

participating in the BSAI trawl limited access fishery. NMFS is also announcing the opening and closing dates of the first and second directed fisheries within the harvest limit area (HLA) in Statistical Areas 542 and 543. These actions are necessary to conduct directed fishing for Atka mackerel in the HLA in areas 542 and 543.

**DATES:** The effective dates are provided in Table 1 under the **SUPPLEMENTARY INFORMATION** section of this temporary action.

**FOR FURTHER INFORMATION CONTACT:**

Obren Davis, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 2010 A season TAC of Atka mackerel for vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District and the Bering Sea subarea was established as 604 metric tons (mt) by the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009).

In accordance with § 679.20(d)(1)(i) and (d)(1)(ii)(B), the Administrator,

Alaska Region, NMFS (Regional Administrator), has determined that 604 mt of the 2010 A season Atka mackerel TAC for vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District and the Bering Sea subarea will be necessary as incidental catch to support other anticipated groundfish fisheries. Therefore, the Regional Administrator is establishing a directed fishing allowance of zero mt. 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 Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea for vessels participating in the A season BSAI trawl limited access fishery.

In accordance with § 679.20(a)(8)(iii)(C), the Regional Administrator is opening the first directed fisheries for Atka mackerel within the HLA in areas 542 and 543, 48 hours after prohibiting directed fishing for Atka mackerel in the Eastern Aleutian Island District and the Bering Sea subarea. The Regional Administrator has established the opening date for the second HLA directed fisheries as 48 hours after the last closure of the first HLA fisheries in either area 542 or 543. Consequently, NMFS is opening and closing directed fishing for Atka mackerel in the HLA of areas 542 and 543 in accordance with the periods listed under Table 1 of this notice.

TABLE 1. EFFECTIVE DATES AND TIMES

Action	Area	Effective Time <sup>1</sup> and Date	
		From	To
Closing Atka mackerel for vessels participating in the BSAI trawl limited access fishery	Eastern Aleutian District (541) and the Bering Sea subarea	1200 hrs, January 20, 2010	1200 hrs, September 1, 2010
Opening the first and second directed fishery in the HLA for the Amendment 80 cooperative	542 543	1200 hrs, January 22, 2010 1200 hrs, February 7, 2010	1200 hrs, February 5, 2010 1200 hrs, February 21, 2010
Opening the first and second directed fishery in the HLA for vessels participating in the Amendment 80 limited access sector	542 and 543 542 and 543	1200 hrs, January 22, 2010 1200 hrs, February 7, 2010	1200 hrs, February 5, 2010 1200 hrs, February 21, 2010
Opening the first directed fishery in the HLA for the vessel participating in the BSAI trawl limited access sector	542	1200 hrs, January 22, 2010	1200 hrs, February 5, 2010

<sup>1</sup>Alaska local time.

In accordance with § 679.20(a)(8)(iii)(A) and § 679.20(a)(8)(iii)(B), vessels using trawl

gear for directed fishing for Atka mackerel have previously registered with NMFS to fish in the HLA fisheries

in areas 542 and 543. NMFS has randomly assigned each vessel to the directed fishery or fisheries for which