

(October 4, 1993)) and therefore not subject to review under this Executive Order.

This final action is not a “significant energy action” as defined in Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

This final action is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885 (April 23, 1997)) because it is not economically significant as defined in Executive Order 12866 and because we have no reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

This final action is not subject to Executive Order 13132, “Federalism” (64 FR 43255 (August 10, 1999)). It will not have substantial direct effects on the State, on the relationship between the national government and the State, or on the distribution of power and responsibilities among the various levels of government. The CAA established the scheme whereby states take the lead in developing plans to meet the NAAQS and the Federal Government acts as a backstop where states fail to take the required actions. This rule will not modify the relationship of the State and EPA for purposes of developing programs to implement the NAAQS.

This final action is not subject to Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249 (November 6, 2000)). It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

#### B. Federal Acts

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This final rule is not subject to the RFA because it was not subject to notice and comment rulemaking under the APA or any other statute. In addition we have invoked the “good cause” exception to notice and comment

rulemaking under 5 U.S.C. 553(b) for this rule.

Under section 202 of the Unfunded Mandates Reform Act of 1995, we must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Today’s action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. The CAA provision discussed in this rule requires states to submit SIPs, and this rule merely provides a finding that California has not met that requirement. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (15 U.S.C. 272) directs EPA to use “voluntary consensus standards” (VCS) in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards that are developed or adopted by VCS bodies. This action does not involve technical standards; therefore, we did not consider the use of any VCS.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, 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 rule 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 rule is not a “major” rule as defined by 5 U.S.C. 804(2) and will be effective January 21, 2009.

#### C. Petitions for Judicial Review

Under CAA section 307(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 23, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 CAA section 307(b)(2).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds.

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

Dated: January 8, 2009.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*  
[FR Doc. E9–1107 Filed 1–16–09; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[DA 08–2125]

#### Amendment of the Commission’s Rules, Concerning Commission Organization, Practice and Procedure, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, Tariffs, Miscellaneous Rules Relating to Common Carriers, Radio Broadcast Services, and Stations in the Maritime Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Correcting amendments.

**SUMMARY:** In this document, we correct an inadvertent error by adding the text of two previously removed rules concerning attachment of charges and payment of charges, and correcting the typographical errors previously published.

**DATES:** Effective January 21, 2009.

**FOR FURTHER INFORMATION CONTACT:** Warren Firschein, Office of Managing Director at (202) 418–0844.

**SUPPLEMENTARY INFORMATION:** This is a summary of the FCC’s Erratum, DA 08–2125, released on September 19, 2008.

On January 25, 2008, the Managing Director released an *Order*, DA 08–122, in the above-captioned proceeding and it was published in the **Federal Register** at 73 FR 9017, February 19, 2008. This Erratum corrects an inadvertent error by reinserting two rules that were eliminated and correcting typographical errors in the Appendix. Accordingly, this Erratum corrects the final regulations by revising these sections of the Order as indicated below.

**Note:** All references to §§ 1.1110 through § 1.1119 in the Commission’s rules, which are now renumbered as §§ 1.1112 through

§§ 1.1121, are amended to reflect these changes.

### List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Anthony J. Dale,

Managing Director.

■ Accordingly, 47 CFR part 1 is corrected by making the following correcting amendments:

### PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

■ 2. Re-designate §§ 1.1110 through § 1.1119 as §§ 1.1112 through § 1.1121, respectively.

■ 3. Add § 1.1110 to read as follows:

#### § 1.1110 Attachment of charges.

The charges required to accompany a request for the Commission's regulatory services listed in §§ 1.1102 through 1.1109 of this subpart will not be refundable to the applicant irrespective of the Commission's disposition of that request. Return or refund of charges will be made only in certain limited instances as set out at § 1.1115 of this subpart.

■ 4. Add § 1.1111 to read as follows:

#### § 1.1111 Payment of charges.

(a) The schedule of fees for applications and other filings (Bureau/Office Fee Filing Guides) lists those applications and other filings that must be accompanied by an FCC Form 159, Remittance Advice' or the electronic version of the form, FCC Form 159-E, one of the forms that is automatically generated when an applicant accesses the Commission's on-line filing and payment process.

(b) Applicants may access the Commission's on-line filing (<http://www.fcc.gov/e-file.html>) and fee payment program by accessing (<http://www.fcc.gov/feefiler.html>). Applicants who use the on-line process will be directed to the appropriate electronic application and payment forms for completion and submission of the required application(s) and payment information.

(c) Applications and other filings that are not submitted in accordance with these instructions will be returned as unprocessable.

**Note to paragraph (c):** This requirement for the simultaneous submission of fee forms

with applications or other filings does not apply to the payment of fees for which the Commission has established a billing process. See § 1.1121 of this subpart.

(d) Applications returned to applicants for additional information or corrections will not require an additional fee when resubmitted, unless the additional information results in an increase of the original fee amount. Those applications not requiring an additional fee should be resubmitted directly to the Bureau/Office requesting the additional information. The original fee will be forfeited if the additional information or corrections are not resubmitted to the appropriate Bureau/Office by the prescribed deadline. A forfeited application fee will not be refunded. If an additional fee is required, the original fee will be returned and the application must be resubmitted with a new remittance in the amount of the required fee to the Commission's lockbox bank. Applicants should attach a copy of the Commission's request for additional or corrected information to their resubmission.

(1) If the Bureau/Office staff discovers within 30 days after the resubmission that the required fee was not submitted, the application will be dismissed.

(2) If after 30 days the Bureau/Office staff discovers the required fee has not been paid, the application will be retained and a 25 percent late fee will be assessed on the deficient amount even if the Commission has completed its action on the application. Any Commission actions taken prior to timely payment of these charges are contingent and subject to recession.

(e) Should the staff change the status of an application, resulting in an increase in the fee due, the applicant will be billed for the remainder under the conditions established by § 1.1118(b) of the rules.

**Note to paragraph (e):** Due to the statutory requirements applicable to tariff filings, the procedures for handling tariff filings may vary from the procedures set out in the rules.

■ 5. Amend newly re-designated § 1.1112 by revising paragraph (a)(2) to read as follows:

#### § 1.1112 Form of payment.

(a) \* \* \*

(2) It is the responsibility of the payer to insure that any electronic payment is made in the manner required by the Commission. Failure to comply with the Commission's procedures will result in the return of the application or other filing.

\* \* \* \* \*

■ 6. Amend newly re-designated § 1.1113 by revising paragraphs (a) and (c) to read as follows:

#### § 1.1113 Filing locations.

(a) Except as noted in this section, applications and other filings, with attached fees and FCC Form 159, must be submitted to the locations and addresses set forth in §§ 1.1102 through 1.1109.

(1) Tariff filings shall be filed with the Secretary, Federal Communications Commission, Washington DC 20554. On the same day, the filer should submit a copy of the cover letter, the FCC Form 159, and the appropriate fee to the Commission's lockbox bank at the address established in § 1.1105.

(2) Bills for collection will be paid at the Commission's lockbox bank at the address of the appropriate service as established in §§ 1.1102 through 1.1109, as set forth on the bill sent by the Commission. Payments must be accompanied by the bill sent by the Commission. Payments must be accompanied by the bill to ensure proper credit.

(3) Petitions for reconsideration or applications for review of fee decisions pursuant to § 1.1119(b) of this subpart must be accompanied by the required fee for the application or other filing being considered or reviewed.

(4) Applicants claiming an exemption from a fee requirement for an application or other filing under 47 U.S.C. 158(d)(1) or § 1.1116 of this subpart shall file their applications in the appropriate location as set forth in the rules for the service for which they are applying, except that request for waiver accompanied by a tentative fee payment should be filed at the Commission's lockbox bank at the address for the appropriate service set forth in §§ 1.1102 through 1.1109.

\* \* \* \* \*

(c) Fees for applications and other filings pertaining to the Wireless Radio Services that are submitted electronically via ULS may be paid electronically or sent to the Commission's lock box bank manually. When paying manually, applicants must include the application file number (assigned by the ULS electronic filing system on FCC Form 159) and submit such number with the payment in order for the Commission to verify that the payment was made. Manual payments must be received no later than ten (10) days after receipt of the application on ULS or the application will be dismissed. Payment received more than ten (10) days after electronic filing of an application on a Bureau/Office

electronic filing system (e.g., ULS) will be forfeited (see §§ 1.934 and 1.1111.)

\* \* \* \* \*

■ 7. In newly re-designated § 1.1114, add and reserve paragraph (b)(1)(ii).

■ 8. In newly re-designated § 1.1115, revise paragraph (a)(1) to read as follows:

**§ 1.1115 Return or refund of charges.**

(a) \* \* \*

(1) When no fee is required for the application or other filing. (see § 1.1111).

\* \* \* \* \*

■ 9. In newly re-designated § 1.1116, revise the introductory text to read as follows:

**§ 1.1116 General exemptions to charges.**

No fee established in §§ 1.1102 through 1.1109 of this subpart, unless otherwise qualified herein, shall be required for:

\* \* \* \* \*

■ 10. In newly re-designated § 1.1117, revise paragraph (a) introductory text to read as follows:

**§ 1.1117 Adjustments to charges.**

(a) The Schedule of Charges established by §§ 1.1102 through 1.1109 of this subpart shall be reviewed by the Commission on October 1, 1999 and every two years thereafter, and adjustments made, if any, will be reflected in the next publication of Schedule of Charges.

\* \* \* \* \*

■ 11. In newly re-designated § 1.1118, revise paragraph (a) introductory text and paragraph (d) to read as follows:

**§ 1.1118 Penalty for late or insufficient payments.**

(a) Filings subject to fees and accompanied by defective fee submissions will be dismissed under § 1.1111 (d) of this subpart where the defect is discovered by the Commission's staff within 30 calendar days from the receipt of the application or filing by the Commission.

\* \* \* \* \*

(d) Failure to submit fees, following notice to the applicant of failure to submit the required fee, is subject to collection of the fee, including interest thereon, any associated penalties, and the full cost of collection to the Federal government pursuant to the provisions of the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996), codified at 31 U.S.C. 3711 *et seq.* See 47 CFR 1.1901 through 1.1952. The debt collection processes described above

may proceed concurrently with any other sanction in this paragraph.

■ 12. In newly re-designed § 1.1119, revise paragraphs (c) introductory text and (e) to read as follows:

**§ 1.1119 Petitions and applications for review.**

\* \* \* \* \*

(c) Petitions for waivers, deferrals, fee determinations, reconsiderations and applications for review will be acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission. Requests for deferral of a fee payment for financial hardship must be accompanied by supporting documentation.

\* \* \* \* \*

(e) Applicants seeking waivers must submit the request for waiver with the application or filing, required fee and FCC Form 159, or a request for deferral. A petition for waiver and/or deferral of payment must be submitted to the Office of the Managing Director as specified in paragraph (c) of this section. Waiver requests that do not include these materials will be dismissed in accordance with § 1.1111 of this subpart. Submitted fees will be returned if a waiver is granted. The Commission will not be responsible for delays in acting upon these requests.

\* \* \* \* \*

■ 13. In newly re-designated § 1.1120, revise paragraph (a) to read as follows:

**§ 1.1120 Error claims.**

(a) Applicants who wish to challenge a staff determination of an insufficient fee or delinquent debt may do so in writing. A challenge to a determination that a party is delinquent in paying the full application fee must be accompanied by suitable proof that the fee had been paid or waived (or deferred from payment during the period in question), or by the required application payment and any assessment penalty payment (see § 1.1118) of this subpart). Failure to comply with these procedures will result in dismissal of the challenge. These claims should be addressed to the Federal Communications Commission, Attention: Financial Operations, 445 12th St., SW., Washington, DC 20554 or e-mailed to [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

\* \* \* \* \*

■ 14. In newly re-designated § 1.1121, revise paragraph (b) to read as follows:

**§ 1.1121 Billing procedures.**

\* \* \* \* \*

(b) In these cases, the appropriate fee will be determined by the Commission and the filer will be billed for that fee. The bill will set forth the amount to be paid, the date on which payment is due, and the address to which the payment should be submitted. See also § 1.1113 of this subpart.

[FR Doc. E9-1137 Filed 1-16-09; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 080721859-81514-02]

RIN 0648-AX01

**Fisheries of the Exclusive Economic Zone Off Alaska, Groundfish of the Gulf of Alaska**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a regulatory amendment to exempt fishermen using dinglebar fishing gear in federal waters of the Gulf of Alaska from the requirement to carry a vessel monitoring system (VMS). This action is necessary because the risk of damage posed to protected corals in the Gulf of Alaska by the dinglebar gear fishery is minor and insufficient to justify the costs of VMS. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plan for Groundfish of the Gulf of Alaska, and other applicable law.

**DATES:** Effective February 20, 2009.

**ADDRESSES:** Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from the Alaska Region website at <http://alaskafisheries.noaa.gov>. Printed copies can be obtained from the Alaska Region NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian.

**FOR FURTHER INFORMATION CONTACT:** Ben Muse, 907-586-7234.

**SUPPLEMENTARY INFORMATION:** Groundfish fisheries in the Gulf of