

Tennessee had entered into a contract with ENA for that funding year.

5. We conclude that, in light of the specific circumstances and the enumerated safeguards, it is appropriate to apply a modification of the Good Samaritan policy in this instance. We instruct USAC to grant Tennessee's request to substitute a common carrier as its Good Samaritan service provider for Funding Year 2002, consistent with its existing procedures for Good Samaritan providers and to process Tennessee's funding request. USAC shall determine whether the selected common carrier meets its existing criteria for identifying a substitute service provider. If USAC determines that Tennessee's application for Funding Year 2002 otherwise complies with the rules of the schools and libraries program, USAC shall issue a funding commitment to Tennessee. Upon determining that all of the invoices submitted by ENA's subcontractors comply with program rules and procedures, USAC then may disburse funds to the designated common carrier for payment to ENA's subcontractors. USAC should determine the identities of the subcontractors, their portion of the contract, and the portion associated with services provided by ENA. USAC should ascertain what services have been rendered, the total cost of those services, and the amount that Tennessee has actually paid for the services rendered. USAC may disburse funds for services delivered until the end of Funding Year 2002.

6. We also instruct USAC to set aside on ENA's account any funds that would have been paid to ENA to compensate it directly for its services under the Tennessee contract, but we do not authorize any payment to ENA at this time. We do not know how long the pending investigation may continue, and cannot predict its ultimate resolution. Absent an indictment or other public action, it may be difficult to determine whether the relevant authorities have concluded their investigation. We therefore cannot specify at this time the circumstances under which it would be appropriate for Tennessee or ENA to petition for reimbursement of funds owed to ENA for services rendered pursuant to ENA's Funding Year 2002 contract with Tennessee. At the same time, we expressly contemplate that ENA should have the opportunity to make its case at some future date that the remaining funds should be released to it for services rendered. If, however, ENA ultimately is found either civilly or criminally liable for any actions arising out of its participation in the schools

and libraries program, the Commission shall initiate debarment proceedings pursuant to the rules adopted in the Commission's most recent order relating to the schools and libraries universal service mechanism.

7. We deny Tennessee's request that payments be made to its selected Good Samaritan provider to cover the salaries of certain key ENA employees who are necessary to keep the network operational for the remainder of the school year. We remain concerned about any funds going to persons currently employed by ENA at this point, especially given the percentage of funding that Tennessee asserts is required to pay these individuals. We encourage Tennessee to explore alternative arrangements to ensure that its network continues to support the educational mission of the state.

8. In reaching this decision, we seek to balance USAC's proper caution in acting on a funding request that may be associated with a law enforcement investigation with the equally important objective of avoiding potentially harmful effects on third parties. We recognize that the circumstances surrounding other investigations may vary significantly. In granting this petition, we emphasize the narrowness of this fact-specific determination. We do not intend our action today to affect the efficient administration of this universal service support mechanism.

9. In conclusion, we emphasize that we seek to guard against waste, fraud and abuse, while ensuring that universal service is preserved and advanced. We recognize that the ongoing investigation may call into question compliance with Commission rules and requirements. If it is ultimately determined that Tennessee, ENA, or other party has violated any program requirements, the Commission shall take all appropriate actions to address that wrongdoing, including, if merited, seeking reimbursement of disbursed funds. It remains incumbent upon the applicant to ensure its compliance with all program rules. But we decline to relegate the Tennessee Funding Year 2002 application to limbo indefinitely, during the pendency of this ongoing investigation.

III. Ordering Clause

10. Pursuant to sections 1–4, and 254 of the Communications Act of 1934, 47 U.S.C. 151–154 and 254, and § 54.503 of the Commission's rules, that the Petition for Immediate Relief filed by the State of Tennessee on April 17, 2003, is granted to the extent provided herein. We instruct SLD to process Tennessee's Funding Year 2002 application and, if

appropriate, disburse funds to the designated Good Samaritan provider, as provided herein.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 021209300–3048–02; I.D. 112502C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Groundfish Fishery Management Measures; Corrections

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

ACTION: Corrections to the 2003 specifications and management measures.

SUMMARY: NMFS announces corrections to the Pacific Coast groundfish management measures published on March 7, 2003. South of 40°10' N. lat., references to an area between Point Fermin and Newport South Jetty open during July and August to limited entry fixed gear and open access groundfish fisheries is corrected to allow California scorpionfish retention. Regulatory language referring to exempted prawn trawl in the open access fishery is clarified to only allow fishing inside the Rockfish Conservation Area (RCA) north of 40°10' N. lat. as stated in the trip limit tables (Table 5 (North) and Table 5 (South)). This action also includes a correction to latitude and longitude coordinates for the RCA 75 fm (137 m) boundary. Typographical errors were corrected for these coordinates in a previous correction published on April 15, 2003, to the final rule but erroneously omitted in the most recent inseason action published on July 7, 2003).

DATES: Effective 0001 hours local July 22, 2003, until the 2004 annual specifications and management measures are effective, unless modified, superseded, or rescinded through a publication in the **Federal Register**.

ADDRESSES: Submit comments to D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way