

wireless providers making a single election whether to report actual interstate telecommunications revenues or use the applicable interim wireless safe harbor. We have become aware that adoption of an affiliate definition in this context that deems a ten percent interest as indicative of control would result in companies being required to make the same election merely because they are related through direct or indirect minority ownership interests of more than 10 percent. We understand that such cross-ownership is common in the wireless telecommunications industry. For example, several major national wireless telecommunications providers may be "affiliated" for purposes of the definition adopted as a result of greater than ten percent ownership interests in certain other wireless telecommunications providers. In short, the definition adopted in the *Universal Service Contribution Methodology Order* may force competing wireless telecommunications providers that are not otherwise under common control to adopt common universal service revenue reporting policies.

3. We conclude that revising the definition of affiliate in this proceeding is necessary to achieve the goals of consistency, equity, and fairness in reporting revenues for purposes of supporting universal service. Entities that are not under common control may have different billing and administrative systems and, consequently, may have legitimate reasons to make different revenue reporting elections. The Commission previously adopted rules in the wireless auction context in order to evaluate affiliations for purposes of determining eligibility for designated entity status. We conclude a similar approach would be reasonable for purposes of revenue reporting for universal service. We, therefore, reconsider on our own motion the definition of "affiliate" adopted in the *Universal Service Contribution Methodology Order*. We now conclude, consistent with § 1.2110(c)(5) of the Commission's rules, that wireless telecommunications providers are affiliated for purposes of making the single election whether to report actual interstate telecommunications revenues or use the applicable interim wireless safe harbor for universal service contribution purposes if one entity (1) directly or indirectly controls or has the power to control another, (2) is directly or indirectly controlled by another, (3) is directly or indirectly controlled by a third party or parties that also controls or has the power to control another, or

(4) has an "identity of interest" with another contributor.

4. *CMRS Actual Interstate Revenues*. We note that some parties have suggested two different readings of the Commission's universal service contribution cost recovery limitations for wireless telecommunications providers that choose to report their actual interstate telecommunications revenues based on a company-specific traffic study. Specifically, AT&T and WorldCom read the requirement that telecommunications carriers cannot mark up the universal service line item above the relevant contribution factor to mean that wireless carriers that do not utilize the interim safe harbors must conduct traffic studies on a customer-by-customer basis when recovering contribution costs through a line item. CTIA, on the other hand, reads this requirement to allow wireless carriers that report revenues based on a company-specific traffic study to use the same company-specific percentage to determine interstate revenues to compute contribution recovery line items.

5. We disagree with AT&T and WorldCom's reading of the requirement. For wireless providers that choose to report their actual interstate telecommunications revenues based on a company-specific traffic study, the interstate telecommunications portion of each customer's bill would equal the company-specific percentage based on its traffic study times the total telecommunications charges on the bill. Accordingly, if such providers choose to recover their contributions through a line item, their line items must not exceed the interstate telecommunications portion of each customer's bill, as described above, times the contribution factor. Just as the Commission did not eliminate the option of reporting actual interstate telecommunications revenues either through a company-specific traffic study or some other means, the Commission did not intend to preclude wireless telecommunications providers from continuing to recover contribution costs in a manner that is consistent with the way in which companies report revenues to USAC. We therefore disagree with AT&T and WorldCom that the recovery limitations adopted in the *Universal Service Contribution Order* should be read so narrowly as to require CMRS providers to conduct traffic studies on a customer-by-customer basis to calculate contribution recovery line items.

### III. Ordering Clause

6. Accordingly, it is ordered, pursuant to sections 1–4, 201–202, 254, and 405 of the Communications Act of 1934, as amended, and § 1.108 of the Commission's rules, this Order and Order on Reconsideration is adopted.

7. Pursuant to section 553(d)(3) of the Administrative Procedure Act, this Order and Order on reconsideration shall become effective upon publication in the **Federal Register**.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 020724175–3022–02; I.D. 062602E]

**RIN 0648–AP71**

### Fisheries of the Exclusive Economic Zone Off Alaska; Amendment 69 to Revise American Fisheries Act Inshore Cooperative Requirements

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to implement Amendment 69 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutians Area (FMP). This final rule will allow an American Fisheries Act (AFA) inshore cooperative to contract with a non-member vessel to harvest a portion of the cooperative's pollock allocation. The North Pacific Fishery Management Council (Council) developed Amendment 69 to provide greater flexibility to inshore catcher vessel cooperatives to arrange for the harvest of their pollock allocation, and to address potential emergency situations, such as vessel breakdowns, that would prevent a cooperative from harvesting its entire allocation. This action is designed to be consistent with the environmental and socioeconomic objectives of the AFA, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

**DATES:** This regulation becomes effective on March 13, 2003, except for