Dated: February 5, 2001.

James Jones,

Director, Registration Division, Office of Pesticides Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.301 [Amended]

2. In § 180.301, amend paragraph (b) by revising the date ''6/30/00'' to read ''12/31/01.''

[FR Doc. 01–3622 Filed 2–9–01; 8:45 am]

BILLING CODE 6560–50–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2525

RIN 3045–AA09

AmeriCorps Education Awards: Delay of Effective Date

AGENCY: Corporation for National and Community Service.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, this action temporarily delays for 60 days the effective date of an amendment to the rule entitled ''AmeriCorps Education Awards,'' published in the **Federal Register** on December 13, 2000, at 65 FR 77820. This rule concerns an individual who successfully completes a term of service in a national service position (referred to as an ''AmeriCorps member'') is eligible for an education award. An AmeriCorps Member may use an education award to repay qualified student loans or to pay for approved educational expenses. To the extent that 5 U.S.C. section 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. section 553(b)(A). Alternatively, the Corporation's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. section 553(b)(B) and 553(d)(3) seeking public comment is impracticable, unnecessary and contrary to the public interest. The temporary 60-day delay in effective date is necessary to allow further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. The imminence of the effective date is also good cause for making this rule effective immediately upon publication.

EFFECTIVE DATES: The effective date of the AmeriCorps Education Awards, published in the **Federal Register** on December 13, 2000, at 65 FR 77820, is delayed for 60 days, from February 12, 2001, to a new effective date of April 13, 2001.

FOR FURTHER INFORMATION CONTACT: Gary Kowalczyk, Coordination of National Service Programs, Corporation for National and Community Service, (202) 606–5000, ext. 340.

Dated: February 7, 2001.

Frank R. Trinity,

Acting General Counsel.

[FR Doc. 01–3559 Filed 2–9–01; 8:45 am]

BILLING CODE 6050–$$–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 24

[WT Docket No. 97–82; FCC 01–17]

Installment Payment Financing for Personal Communications Services (PCS) Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial.

SUMMARY: This document denies five petitions for reconsideration (''Petitions'') of the Commission's *Sixth Report and Order and Order on Reconsideration* (''*C/F Block Sixth Report and Order*'') challenging a number of the modifications to the C and F block service and auction rules. The Commission declines to further revise its rules and affirms its modifications as adopted in the *C/F Block Sixth Report and Order.*

FOR FURTHER INFORMATION CONTACT: Regina Martin, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of an Order on Reconsideration (*Order*) in WT Docket No. 97–82, adopted on January 16, 2001, and released on January 18, 2001. The complete text of the *Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 445 12th Street, SW., Room CY–B400, Washington, DC 20554, (202) 314–3070. The *Order* is also available on the Internet at the Commission's web site: *http://www.fec.gov/wtb/documents.html.*

I. Introduction

1. In the *Order,* we address the five petitions for reconsideration (''Petitions'') of the Commission's *C/F Block Sixth Report and Order,* 65 FR 53624 (September 5, 2000). In that document we modified the auction and service rules for C and F block broadband Personal Communications Services (PCS) licenses. For the reasons set forth, we deny these Petitions and affirm our findings in the *C/F Block Sixth Report and Order.*

II. Background

2. The Commission outlined the original framework for C and F block auctions in the 1994 *Competitive Bidding Fifth Report and Order,* establishing the C and F blocks as ''set-aside'' licenses for ''entrepreneurs'' in which eligibility would be restricted to entities below a specified financial threshold. *See* 59 FR 37566 (July 22, 1994). These provisions were consistent with Congress' mandate to promote participation of small businesses, rural telephone companies, and businesses owned by members of minority groups and women (collectively ''designated entities'') in the provision of spectrum-based services. In addition, the Commission adopted special provisions for the C and F blocks to assist designated entities.

3. Section 309(j)(4) of the Communications Act directs the Commission, in prescribing regulations to implement the objectives of section 309(j)(3), to, *inter alia:* (i) Establish performance requirements to ensure prompt delivery of service to rural areas and prevent warehousing of spectrum by licensees; (ii) prescribe area designations and bandwidth assignments that promote an equitable geographic distribution of licenses and services, economic opportunity for a wide variety of applicants, including designated entities, and rapid deployment of services; and (iii) ensure

that designated entities are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider using bidding preferences and other procedures.

4. The Commission has held four entrepreneurs' block broadband PCS auctions to date. The initial C block licenses were awarded through two auctions, Auction No. 5, which ended on May 6, 1996, and Auction No. 10, which concluded on July 16, 1996. Auction No. 11, the initial F block auction, ended on January 14, 1997, and also included D and E block licenses. Auction No. 22, which concluded on April 15, 1999, made available C and F block licenses that had been returned to, or reclaimed by, the Commission. The inventory for Auction No. 35, which began on December 12, 2000, includes 422 licenses covering 195 various Basic Trading Areas (BTAs). The 422 licenses include 312 C block 10 MHz licenses, 43 C block 15 MHz licenses, and 67 F block 10 MHz licenses.

5. On June 7, 2000, we released a Further Notice of Proposed Rulemaking (''*Further NPRM*''), 65 FR 37092 (June 13, 2000), which set forth tentative conclusions and proposals concerning the C and F block rules. On August 29, 2000, we released the *C/F Block Sixth Report and Order,* which resolved the issues raised in the *Further NPRM* and revised the service and auction rules for the auction of C and F block broadband PCS licenses in furtherance of the various goals of section 309(j) of the Communications Act. The *C/F Block Sixth Report and Order,* among a number of other modifications to the Commission's rules, reconfigured the size of C block spectrum license size; removed the entrepreneur eligibility restrictions (permitted ''open'' bidding) for some, but not all, licenses available in Auction No. 35 and in future C and F block auctions; eliminated bidding credits in closed bidding; and modified the transfer restrictions for C and F block licenses. As addressed more fully, Petitioners challenge a number of the modifications to the C and F block service and auction rules adopted in the *C/F Block Sixth Report and Order.*

III. Discussion

A. Reconfiguration of C Block Spectrum License Size

6. *Background.* In the *C/F Block Sixth Report and Order,* we reconfigured each 30 MHz C block license available in Auction No. 35, or any subsequent auction, into three 10 MHz C block licenses.

7. *Discussion.* All five of the Petitioners object to the Commission's decision to split the 30 MHz C block licenses into three 10 MHz licenses. Petitioners argue that a 10 MHz license is insufficient to provide advanced mobile services. We considered and rejected similar arguments in the *C/F Block Sixth Report and Order.* As explained, we decline to further reconfigure the available C block licenses and we affirm our decision to provide for three 10 MHz C block licenses.

8. As the petitioners have not provided any new rationale to justify deviating from our conclusion in the *C/F Block Sixth Report and Order,* we decline to reconsider our decision to divide each available 30 MHz C block license into three 10 MHz licenses. Historically 10 MHz has been one of the principal license sizes used in broadband PCS. In the *C/F Block Sixth Report and Order,* we found that 10 MHz is a viable minimum license size. Moreover, we note that our rules permit aggregation, subject to the spectrum cap, and a 10 MHz license allows bidders to acquire additional spectrum in particular markets. Further, we believe dividing the spectrum into three 10 MHz C block licenses should promote a wider dissemination of licenses, provide bidders with more flexibility to adapt their bidding strategies to meet their business plans, and should make licenses more affordable, especially for entrepreneurs. As we noted in establishing both 20 MHz and 10 MHz licenses for wireless use in the 700 MHz service, 10 MHz wireless licenses ''should prove of interest to parties in the record who desire spectrum to deploy innovative wireless technologies, including high-speed Internet access, that do not require as much spectrum.'' Thus, we continue to believe that this reconfiguration, along with the other rule modifications adopted in the *C/F Block Sixth Report and Order,* meets the diverse needs of both large and small carriers seeking to participate in the next C and F block auction. The reconfiguration ensures the most efficient use of spectrum through the competitive bidding process while at the same time promoting wider auction participation and license distribution in accordance with the goals of section 309(j) of the Communications Act. Lastly, as explained, we note that we have retained entrepreneur eligibility restrictions for some C block licenses to ensure that entrepreneurs are provided greater opportunities to acquire spectrum to fulfill their business needs.

B. Eligibility Restrictions Under a Tiered Approach

9. *Background.* In the *C/F Block Sixth Report and Order,* we divided the BTAs into two categories, ''Tier 1'' BTAs and ''Tier 2'' BTAs. Tier 1 comprises BTAs with populations that, according to the 1990 census, are equal to or greater than 2.5 million; and Tier 2 comprises the remaining BTAs. We decided to establish open bidding (bidding without entrepreneur eligibility restrictions) for two of the three newly reconfigured 10 MHz C block licenses in Tier 1 and for one of the three newly reconfigured 10 MHz C block licenses in Tier 2. We also adopted open bidding for all F block licenses available in Auction No. 35 and in all future auctions.

10. *Discussion. Tiers.* Northcoast urges the Commission to reconsider and simplify its tiering and eligibility restrictions by eliminating all tiering and by allowing open bidding only for a single 10 MHz C block license in all markets. Northcoast asserts that, under the new tiering rule, it will be unable to meet its business plans because it will not be able to competitively bid for available C block spectrum in markets with a population above 2.5 million. We considered and rejected similar arguments in the *C/F Block Sixth Report and Order.* We continue to believe that this approach is, in conjunction with the other modifications to the entrepreneur eligibility restrictions, the most effective method of accommodating the various business plans of both small and larger carriers and is fully consistent with the statutory goals for competitive bidding. This approach, in conjunction with the changes in entrepreneur eligibility restrictions, makes more spectrum available for ''open'' bidding in the most populous markets where the demand for spectrum by existing CMRS carriers is the greatest and the prospects of a spectrum shortage for these carriers is the most acute. At the same time, this approach keeps most of the C block spectrum (*i.e.* 20 MHz) closed in all but the very largest markets, while also retaining restricted eligibility for some spectrum (*i.e.* 10 MHz) even in those latter cases. Thus, under our new rules, entrepreneurs will have an opportunity to acquire additional spectrum on a set-aside basis in all available C block markets, which should assist them in achieving their business goals and objectives. At the same time, our new rules also take into account the need of many large carriers to acquire additional spectrum. In adopting this approach, we have also taken into account section 309(j)(3) of the Communications Act

which requires us to promote a variety of objectives, including but not limited to, the promotion of economic opportunity and competition, and the dissemination of licenses among a wide variety of applicants, in order to serve the needs of the public. We continue to believe that ''our decision to establish two tiers with 2.5 million population demarcation represents the most reasonable balancing of the various competing public interest factors that bear on this issue.'' For the foregoing reasons, we affirm our decision in the *C/F Block Sixth Report and Order* to utilize a tiered approach, limiting non-entrepreneurs participation to certain markets.

11. *30 MHz and 15 MHz C block licenses.* Alpine maintains that the Commission, in eliminating some of the entrepreneur eligibility restrictions, failed to consider the 309(j)(3) statutory objectives, particularly the objective to avoid the excessive concentration of licenses. Additionally, several petitioners state that the record does not support the Commission's decision to eliminate some of the entrepreneur eligibility restrictions. These petitioners assert that the majority of the commenters favored maintaining the entrepreneur eligibility restrictions. As discussed, by eliminating some, but not all, of the C block entrepreneur eligibility restrictions, we give effect to, and reasonably balance, as many of the section 309(j) objectives as possible.

12. Section 309(j)(3) directs the Commission to seek to promote a variety of objectives, including economic opportunity, competition, and the rapid deployment of new technologies and services by, *inter alia,* disseminating licenses among a wide variety of applicants. In certain instances, these objectives conflict, thus requiring the Commission to balance the competing objectives. Section 309(j) does not require the Commission to seek to promote the participation of small businesses in PCS auctions at the expense of other enumerated 309(j)(3) objectives nor does it give one objective greater weight than another objective. In balancing the 309(j)(3) objectives, including the avoidance of the excessive concentration of licenses, we reviewed the record before us and have taken into account the needs of both large and small carriers to acquire additional spectrum to provide services and/or to satisfy their business plans. In the *C/F Block Sixth Report and Order,* we concluded that it was fair and appropriate to apportion the spectrum to accommodate the interests of large carriers to obtain additional spectrum to ''fill out'' regional or national service areas. At the same time, we decided to maintain a significant set-aside of C block spectrum for entrepreneurs. As previously explained, section 309(j) does not mandate the use of set-asides or any other method to promote the participation of small businesses in spectrum auctions, particularly in light of changed circumstances.

13. Three petitioners argue that the record provides no justification for providing large carriers with additional spectrum. Specifically, they point to recent general statements in news articles where two large carriers asserted that they have a sufficient amount of spectrum. Therefore, petitioners argue that the record provides no justification for providing them with an opportunity to acquire additional spectrum. As we previously discussed, circumstances in the industry have changed dramatically, and continue to change, since the implementation of our rules in 1994. The introduction of wireless Internet, advanced data, and 3G services, as well as global competition within these services, has created a shortage of suitable available spectrum. The statement of two large carriers, as reported in two recent news articles, does not undermine the record as a whole, particularly where other large carriers claim that they need additional spectrum to provide advanced services or to fulfill their business plans. We believe that apportioning the spectrum as described promotes the further development of CMRS competition and innovation, especially in large markets. For these reasons, we affirm our position in the *C/F Block Sixth Report and Order* to remove the eligibility restrictions for some, but not all, of the available C block spectrum.

14. *F block licenses.* Four petitioners requested that the Commission retain entrepreneur eligibility requirements for F block licenses. These petitioners argue that the Commission failed to provide support for eliminating the F block set-aside, particularly in light of the success of F block licensees. For instance, Northcoast argues that since entrepreneurs are in the process of building out their systems and service has not been delayed to the public, the entrepreneur eligibility requirement should be maintained. These petitioners have not provided any new rationale to justify the preservation of the F block set-aside. We considered arguments such as Northcoast's when we reached our decision in the *C/F Block Sixth Report and Order.* As we stated there, the need for additional open spectrum that exists in the C block markets also extends to the F block markets. Additionally, open bidding for F block licenses may lead to more expeditious provision of wireless services to the public. The C and F blocks have been subject to different regulatory requirements, reflecting the different bidding and marketplace histories of the two blocks as well as the corresponding different equity and reliance concerns applicable to bidders and licensees in each of the blocks. Taking into account the divergent history of F block, we decided to remove the entrepreneur eligibility restrictions and to allow open bidding for all available F block licenses in Auction No. 35 and in future auctions. This determination was informed by the fact that almost every market with an available F block license already has a significant 30 MHz C block entrepreneur presence. Thus, we found that we could modify the F block eligibility rules while preserving the diversity of opportunity and service that are goals of section 309(j). For these reasons, we affirm our position in the *C/F Block Sixth Report and Order* to allow open bidding and eliminate the F block entrepreneur eligibility restrictions.

15. *Unsold set-aside licenses.* For Auction No. 35, in the *C/F Block Sixth Report and Order,* we eliminated entrepreneur eligibility requirements for all C block licenses that were available but not sold in Auction No. 22. We also decided to eliminate the set-aside for any C and F block license that was available, but not sold, in any subsequent auction. RTG and OPASTCO urge the Commission not to eliminate entrepreneur eligibility requirements for licenses unsold in Auction No. 22, but rather provide entrepreneurs with one more opportunity to bid on such licenses on a closed basis as well as on future unsold licenses under a set-aside approach. We previously considered RTG and OPASTCO's position and determined that closed bidding for this spectrum will not result in the acquisition and construction of these licenses. The failure of certain 15 MHz C block licenses to sell in Auction No. 22 indicates that closed bidding for these licenses will not expeditiously result in the acquisition and construction of these licenses and in service to the public. By lifting the eligibility restrictions for these unsold licenses, we seek to prevent additional delays in their utilization. For these reasons, we affirm our decision in the *C/F Block Sixth Report and Order* and will provide all bidders with an opportunity to acquire previously unsold set-aside licenses.

C. Competitive Bidding Design

16. *Background.* In the *C/F Block Sixth Report and Order,* we rejected

Nextel Communications, Inc.'s (''Nextel'') bulk bid proposal. We concluded that Nextel's proposal would exclude all but a very few competitors. We also left to the Bureau, under its existing delegated authority, the final selection of a competitive bidding design and methodology for Auction No. 35, including the decision whether to implement a combinatorial (package) bidding design for the auction. On September 6, 2000, the Bureau released the *Comment Public Notice,* 65 FR 55243 (September 13, 2000), which invited public comment on its auction procedures for the C and F block auction, including the proposal to adopt a simultaneous multiple round bidding methodology. On October 5, 2000, the Bureau released the *Procedures Public Notice,* 65 FR 75702 (December 4, 2000), in which, *inter alia,* it determined to utilize a simultaneous multiple round bidding design for Auction No. 35. Subsequently, on November 6, 2000, Nextel filed a petition seeking to change the Auction No. 35 design to allow package bidding. The Bureau denied Nextel's Petition.

17. *Discussion.* As an alternative to the Commission reserving at least 20 MHz of spectrum for entrepreneurs, RTG and OPASTCO have requested that the Commission provide entities with a means of combinatorial bidding on the disaggregated licenses. We reject this alternative because, as the Bureau previously explained in response to Nextel's request for combinatorial bidding, the public interest would not be served by implementing package bidding for Auction No. 35. Implementation of a package bidding design would have necessitated a notice and comment period due to the unique auction and service rules applicable to Auction No. 35. The public had ample opportunity to request an alternative bidding design prior to the start of Auction No. 35. First, we sought comment, in the *Further NPRM,* on possible ways for bidders to efficiently aggregate licenses in Auction No. 35. The Bureau also invited public comment on its proposal to adopt simultaneous multiple round bidding. No party filed comments contesting this bidding methodology. In denying Nextel's Petition, the Bureau found that establishing combinatorial bidding, after the short-form application filing deadline, would impose delay on auction participants that would not be in the public interest.

18. Moreover, the Commission has not yet conducted an auction utilizing combinatorial bidding due to the complexity of implementing such a bidding design. Although the Bureau has adopted package bidding procedures for the auction of the 747–762 and 777–792 MHz bands (Auction No. 31), the package bidding procedures established for Auction No. 31 were not designed with Auction No. 35 in mind. Accordingly, absent significant modification, such a design would have been complex and impractical to implement for Auction No. 35, particularly in light of the large number of licenses involved. Further, applicants prepared business plans based on the Bureau's bidding methodology announced in the *Procedures Public Notice.* As noted, parties that need additional spectrum have the ability to aggregate licenses, subject to the CMRS spectrum cap. For these reasons, we affirm that the final selection of a bidding design is within the Bureau's delegated authority and we will not disturb the Bureau's final selection of a simultaneous multiple round bidding design for Auction No. 35.

D. Bidding Credits

19. *Background.* In the *C/F Block Sixth Report and Order,* we decided to maintain existing small and very small business bidding credits (15 percent and 25 percent, respectively) for licenses won in open bidding and to eliminate bidding credits for licenses won in closed bidding. With respect to open bidding, we concluded that bidding credits of 15 and 25 percent will allow effective competition by small businesses. With respect to closed bidding, we concluded that the continued use of bidding credits in restricted auctions would not serve its intended purpose.

20. *Discussion. Open Bidding.* We received petitions from Northcoast, RTG and OPASTCO requesting an increase in bidding credits in open auctions. Northcoast argues that retaining the existing levels of bidding credits (15 and 25 percent) in open bidding will not permit effective competition by small businesses. Similarly, RTG and OPASTCO argue that the Commission should increase bidding credits in open auctions to ensure that entrepreneurs have an opportunity to participate. We considered and rejected these arguments in the *C/F Block Sixth Report and Order.* We noted that in our Specialized Mobile Radio (SMR) 900 MHz auction—using bidding credits of 10 percent and 15 percent—75 percent of the winning bidders were small businesses, winning 26 percent of the licenses. Moreover, in Auction No. 11, the auction of D, E, and F block licenses, small and very small business were the high bidders for 141 of the 986 D and E block licenses won in that auction, even though bidding credits were not available for D and E block licenses. Thus, small businesses have proven to be competitive in auctions even where we have provided for lower bidding credits than what we have adopted for Auction No. 35. Northcoast, RTG and OPASTCO have not provided any new rationale to justify increasing the level of bidding credits for licenses subject to open bidding. Therefore, for open licenses, we will maintain the current level of bidding credits for small and very small businesses.

21. *Closed Bidding.* With respect to closed bidding, four petitioners object to the Commission's decision to eliminate bidding credits in closed auctions. These petitioners argue that by eliminating the bidding credits in closed auctions, the Commission has violated the congressional mandate pursuant to section 309(j) to provide small and very small businesses with a meaningful opportunity to compete in spectrum auctions. Specifically, Northcoast, NTCA, and RTG and OPASTCO are concerned that, without bidding credits, small and very small businesses will be unable to compete against ''grandfathered'' entities that are generating millions of dollars in gross revenues.

22. We considered and rejected this argument in the *C/F Block Sixth Report and Order.* We noted that two groups are included among those entities eligible to participate in the entrepreneurs' block auctions. One group consists of well-capitalized new entities with small gross revenues. Another group consists of older companies with small total assets and net revenues, but high gross revenues. As we explained, this situation creates an anomaly because the first group, the well-capitalized new entities, may qualify for bidding credits, while the second group, the older companies, may not qualify for bidding credits. If we were to retain bidding credits in closed bidding, it may skew these auctions in favor of well-capitalized new entities that are uniquely structured to protect large investors from attribution. Moreover, although there may be a number of ''grandfathered'' entities participating in Auction No. 35, we have found that small and very small businesses have been previously successful in open auctions without bidding credits. As we are not persuaded that small and very small businesses will be unable to effectively compete against ''grandfathered'' entities, and as we do not want to undermine the ''grandfather'' exception, we reject petitioners' request to provide bidding credits in closed auctions. We

continue to believe that small and very small businesses will have a meaningful opportunity to compete in Auction No. 35 and in future spectrum auctions. For this reason, we affirm our decision in the *C/F Block Sixth Report and Order* to eliminate bidding credits in closed auctions.

E. Transfer Requirements

23. *Background.* In the *C/F Block Sixth Report and Order,* we modified the transfer restrictions for C and F block licenses. Specifically, we concluded that C and F block spectrum licenses won pursuant to open bidding would not be subject to a five-year holding and limited transfer rule. With respect to closed bidding, we concluded that a licensee would be allowed to assign or transfer a license to a non-entrepreneur as soon as the licensee completed its first construction benchmark. Additionally, we eliminated unjust enrichment payments for licenses won in Auction No. 5 and Auction No. 10, but retained unjust enrichment payments for licenses that were acquired in Auction No. 11 and Auction No. 22. Despite requests from commenters, we decided not to allow a carrier to exchange or transfer restricted C or F block licenses during the holding period where the carrier could demonstrate ''substantial service'' throughout its system, but not in the particular market that would be affected by the transfer.

24. *Discussion.* On August 9, 2000, fourteen days before adoption of the *C/F Block Sixth Report and Order,* Congress adopted legislation that grants qualifying Alaska Native regional corporations relief from the entrepreneur transfer restrictions and unjust enrichment payment requirements. To qualify, the corporation (or an affiliate thereof) must be organized pursuant to the Alaska Native Claims Settlement Act, hold a PCS license as of the date of the enactment of the legislation, and either have paid for the license in full or have complied with the payment schedules for the license. Cook Inlet Region, Inc. (''CIRI'') is an Alaska Native regional corporation and meets the requirements of the statute. Thus, this legislation allows CIRI to transfer or assign a license to a non-entrepreneur without paying any unjust enrichment penalties. Alpine requests that the Commission, in light of this legislation, revise its transfer rules so as to apply the same relief afforded CIRI in a uniform manner to all entrepreneurs. Alpine argues that if relief from the unjust enrichment penalty requirements is not applied to all entrepreneurs, then this will result in discriminatory application of the Commission's rule. In the alternative, Alpine asks the Commission to amend its rules to exclude CIRI from Auction No. 35 if all entrepreneurs cannot be afforded the same relief. CIRI and VoiceStream Wireless Corporation (''VoiceStream'') both oppose Alpine's request to exclude CIRI from Auction No. 35. Although CIRI and VoiceStream do not oppose the elimination of all transfer restrictions for entrepreneurs, both parties object to Alpine's attempt to utilize a rulemaking proceeding to decide CIRI's eligibility to participate in Auction No. 35. Verizon opposes Alpine's request to remove all transfer restrictions on licenses won in closed bidding. Verizon states that, absent the Commission's transfer restrictions, entrepreneurs could purchase licenses and immediately sell the licenses to non-entrepreneurs.

25. As stated, we have made several modifications to the C and F block transfer restrictions. In modifying the transfer restrictions, we have attempted to level the playing field for entrepreneurs with respect to other licensees, making it easier for entrepreneurs to restructure their spectrum holdings, provide additional access to capital, and to increase effective competition by entrepreneurs. The relief accorded CIRI under the statute was specifically authorized by Congress and narrowly tailored. The legislation, therefore, does not change the Commission's application of its transfer requirements to all other entrepreneurs. As a matter of legislative initiative, Congress determined to exempt companies like CIRI from the economic consequences of the application of the unjust enrichment provisions. Congress could have provided the same relief to all applicants, but instead Congress chose to narrowly tailor the specific relief. Notably, Congress left intact the statutory directive of section 309(j)(4)(E), which requires the Commission to ''require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits.'' Therefore, Congress' determination to create an exemption that applies to CIRI does not show legislative intent to exempt all applicants from the antitrafficking and unjust enrichment provisions. Nor does Congress' action negate the statutory purpose served by the transfer restrictions. Providing all applicants with the specific relief provided to CIRI would circumvent the underlying purpose of retaining a set-aside in that entrepreneurs could acquire a license in a closed auction and immediately sell the newly acquired license on the open market at windfall prices without paying any penalties. We think that such a result is neither consistent with making licenses available for closed bidding by entrepreneurs, in furtherance of section 309(j)(4)(D) (requiring the Commission to ensure that small businesses, *inter alia,* are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of bidding preferences and other procedures) nor, as indicated, with the directives of section 309(j)(4)(E) (requiring various measures to prevent unjust enrichment).

26. Moreover, the legislation that provides CIRI with this relief does not at the same time, in and of itself, render CIRI ineligible for entrepreneur status in Auction No. 35, or in any future auction. CIRI's eligibility to participate in Auction No. 35 as an entrepreneur is dependent on CIRI satisfying our entrepreneur eligibility restrictions. The instant rulemaking proceeding is not the proper forum to challenge congressional legislation or to determine CIRI's entrepreneur status for Auction No. 35. After the Commission by public notice announces that long-form applications have been accepted for filing, Alpine and/or any other applicant, if they choose to do so, will have an opportunity to challenge CIRI's entrepreneurial status by way of a petition to deny filed with the Commission. For these reasons, we will not further revise its transfer rules or amend its rules to exclude CIRI from Auction No. 35.

IV. Ordering Clause

27. Accordingly, it is ordered, pursuant to sections 4(i), 5(b), 5(c)(1), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 155(b), 156(c)(1), 303(r), and 309(j), the Petitions filed by Alpine PCS, Inc, National Telephone Cooperative Association, Northcoast Communications, LLC, Office of Advocacy of the United States Small Business Administration, and The Rural Telecommunications Group and the Organization for the Promotion and Advancement of Small Telecommunications Companies filed in response to the *C/F Block Sixth Report and Order* are denied.

List of Subjects in 47 CFR Part 24

Personal communications services.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–3518 Filed 2–9–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 980414095-8240-02; I.D. 121800D]

Fisheries of the Northeastern United States; Dealer Reporting Requirements

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

ACTION: Notification of termination of the deferral of Interactive Voice Response (IVR) System reporting requirements for Atlantic cod and haddock purchases; stay.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, this action temporarily stays for 60 days the effectiveness of the notification published in the **Federal Register** on December 29, 2000, that terminated the deferral of the IVR system reporting requirements for Atlantic cod and haddock purchases for dealers issued Northeast Multispecies permits.

DATES: Effective February 12, 2001, the rule document, Dealer Reporting Requirements, published at 65 FR 82944 on December 29, 2000, is stayed from January 28, 2001, until April 1, 2001.

FOR FURTHER INFORMATION CONTACT: Kelley McGrath, (978) 281-9307 or Gregory Power, (978) 281-9304.

SUPPLEMENTARY INFORMATION: To effectively monitor landings of quota-managed species on a timely basis, NMFS issued a final rule (63 FR 52639, October 1, 1998) requiring federally permitted dealers to submit a weekly summary of purchases of quota-managed species through the IVR system within 3 days of the end of the reporting week. To minimize the burden of dealer reporting requirements, the regulations implementing the use of an IVR system also include authorization for the Regional Administrator, Northeast Region, NMFS (Regional Administrator) to defer the IVR reporting requirements for any species if landings are not expected to reach levels that would cause the applicable target exploitation rate specified in the Fisheries Management Plan for that species to be achieved, resulting in specific management changes. In order to minimize the burden of dealer reporting requirements, the Regional Administrator deferred IVR reporting requirements for Atlantic mackerel, butterfish and regulated Northeast Multispecies, which included Atlantic cod and haddock in a notification action effective November 1, 1998 (63 FR 57931, October 29, 1998). The Regional Administrator determined that in order to collect accurate data on a real-time basis, she needed to terminate the deferral for Atlantic cod and haddock to ensure that the Atlantic cod and haddock species are maintained at sustainable levels. Therefore, a notification action was published on December 29, 2000 (65 FR 82944), terminating the deferral of the IVR system reporting requirements for Atlantic cod and haddock purchases. This action is effective on January 28, 2001. However, consistent with the guidance contained in the ''Regulatory Review Plan,'' NMFS is staying the effectiveness of the IVR system reporting requirements deferral through March 31, 2001. Therefore, the deferral of the IVR reporting requirements for Atlantic mackerel, butterfish and regulated Northeast Multispecies including Atlantic cod and haddock, will remain in effect through March 31, 2001. The termination of the stay of the IVR system reporting requirements for Atlantic cod and haddock purchases is effective April 1, 2001. All other reporting requirements as discussed in the December 29, 2000, notification remain in effect.

Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, NMFS' implementation of this rule without opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. Given the imminence of the effective date, seeking prior public comment on this temporary stay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. Delays in implementing the stay while seeking public comment would have led to confusion in the fishing industry concerning which reporting requirements would be required for dealers during this interim period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 6, 2001.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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