

eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this direct final rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This direct final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, 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.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

The Coast Guard considered the environmental impact of this direct final rule and concluded that, under figure 2-1, paragraph (34)(a) of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. It is "procedural" within the meaning of that paragraph. A Determination of Categorical Exclusion is available in the docket where indicated under ADDRESSES.

### List of Subjects in 46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 1 as follows:

## PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

### Subpart 1.03—Rights of Appeal

■ 1. Add the authority citation to subpart 1.03 to read as follows:

**Authority:** 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Public Law 107-296, 116 Stat. 2135; Department of Homeland Security Delegation No. 1070; § 1.01-35 also issued under the authority of 44 U.S.C. 3507.

■ 2. Revise paragraph (h)(5) of § 1.03-15 to read as follows:

#### § 1.03-15 General.

\* \* \* \* \*

(h) \* \* \*

(5) Commandant (G-M) for appeals involving decisions or actions of the Director, Great Lakes Pilotage.

\* \* \* \* \*

■ 3. Revise § 1.03-50 to read as follows:

#### § 1.03-50 Appeals from decisions or actions of the Director, Great Lakes Pilotage.

Any person directly affected by a decision or action of the Director, Great Lakes Pilotage, may make a formal appeal of that decision or action to Commandant (G-M), in accordance with the procedures contained in § 1.03-15 of this subpart.

Dated: May 21, 2003.

**Paul J. Pluta,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.*

[FR Doc. 03-15641 Filed 6-20-03; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

[ET Docket No. 99-231; FCC 03-124]

### Spread Spectrum Devices

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for rulemaking; denial.

**SUMMARY:** This document denies the Petition for Reconsideration filed by Warren C. Havens and Telesaurus Holdings GB, LLC, d/b/a LMS Wireless ("Havens") of the Commission's *Second Report and Order* in this proceeding. We affirm our decision to permit new digital transmission technologies to operate in the 902-928 MHz (915 MHz) band under the same rules that govern the operation of direct sequence spread spectrum systems, and reject Havens'

request that we delay the implementation of these rules.

**FOR FURTHER INFORMATION CONTACT:** Neal McNeil, Office of Engineering and Technology, (202) 418-2408.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order*, ET Docket No. 99-231, FCC 03-124, adopted May 27, 2003 and released May 30, 2003. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Qualex International, Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 863-2893; fax (202) 863-2898; e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

### Summary of the Memorandum Opinion and Order

1. In the *Second Report and Order* in ET Docket No. 99-231, the Commission revised § 15.247 of its rules to allow new digital transmission technologies to operate under the same rules as direct sequence spread spectrum systems in the 915 MHz, 2.4 GHz, and 5.7 GHz bands. The Commission stated that these changes will facilitate the continued development and deployment of new wireless devices for businesses and consumers. The modified rules will allow more diverse products to occupy those bands, thereby increasing consumer choice. At the same time, the rules will provide flexibility for quickly introducing new non-interfering products without the need for rule makings to address each developing technology. The new rules became effective on July 25, 2002.

2. On July 25, 2002, Havens filed a petition for reconsideration asking the Commission to defer the rule changes noted above in the 915 MHz band, pending resolution of two rulemaking petitions: One filed by Progeny LMS LLC ("the Progeny petition"), and one that Havens intended to file at a later date. The Progeny petition seeks rule changes for the Location and Monitoring Service ("LMS") in the 915 MHz band. Specifically, Progeny seeks elimination of restrictions barring a single licensee from holding all LMS licenses in a given area, elimination of the restriction on real-time interconnection, elimination of the restriction on the types of services LMS licensees may offer, and the substitution of technical limits, as

necessary, for the current service limitations. Progeny also requests modification of the safe harbor provision of § 90.361 of the rules that creates a presumption of non-interference from part 15 and Amateur operations in the 902–928 MHz band. Havens asserts that the changes to the part 15 rules adopted in the *Second Report and Order* that allow increased flexibility for unlicensed devices may lead to increased part 15 use, which would jeopardize effective use of LMS in this spectrum.

3. We note that Havens has not shown sufficient cause for delaying the implementation date of the rules adopted in the *Second Report and Order*. The changes to the part 15 rules that allow increased flexibility for manufacturers to improve product performance did not change the technical requirements, *i.e.*, maximum peak power and power spectral density, that we find adequate to protect other spectrum users from interference. An LMS receiver will experience no more interference from a part 15 device operating under the rules adopted in the *Second Report and Order* than under the prior rules. Havens has made no showing that contradicts this conclusion, and a mere statement of belief that increased use may lead to increased interference is not sufficient justification for reconsideration. In the event that the Commission proposes to revise its rules in response to the Progeny petition, interested parties can address part 15 and LMS issues in the context of that rulemaking proceeding.

4. Finally, we decline to delay implementation of rule changes on the mere speculation that a Petition for Rulemaking may be filed that may affect use of the band. We note that the rule changes adopted in the *Second Report and Order* became effective on July 25, 2002. Havens did not raise any objections to the proposals during the pendency of this proceeding and has not filed a Petition for Rulemaking concerning the 915 MHz band. We find that Havens has not presented sufficient justifications to warrant reconsideration of the rules adopted in the *Second Report and Order* in this proceeding.

#### Ordering Clauses

5. Pursuant to sections 4(i), 302, 303(e), 303(f), 303(g), 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), 303(g), 303(r), and 405, it is ordered that the Petition for Reconsideration filed by Warren C. Havens and Telesaurus GB, LLC is denied.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 03–15703 Filed 6–20–03; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 021122286–3036–02; I.D. 061803B]

#### Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the second seasonal apportionment of the 2003 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), June 19, 2003, through 1200 hrs, A.l.t., June 29, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 Pacific halibut bycatch allowance for the GOA trawl shallow-water species fishery, which is defined at § 679.21(d)(3)(iii)(A), as established by the final 2003 harvest specifications for groundfish of the GOA (68 FR 9924, March 3, 2003) for the second season, the period April 1, 2003, through 1200 hrs, A.l.t., June 29, 2003, is 100 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 2003 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been reached.

Consequently, NMFS is prohibiting directed fishing for the shallow-water species fishery by vessels using trawl gear in the GOA, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the shallow-water species fishery are: pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and “other species.”

Maximum retainable amounts may be found in the regulations at § 679.20(e) and (f).

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the second seasonal apportionment of the 2003 Pacific halibut bycatch allowance, and therefore reduce the public’s ability to use and enjoy the fishery resource.

The AA for Fisheries, NOAA, also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: June 18, 2003.

**Richard W. Surdi,**

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

[FR Doc. 03–15797 Filed 6–18–03; 4:35 pm]

**BILLING CODE 3510–22–S**