

subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13.

Ordering Clauses

11. Pursuant to the Section 1, 4, 301, 302(a), and 303, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 301, 302(a), and 303, the *Memorandum Opinion and Order is adopted*, and part 2 of the Commission's Rules is amended as specified in the attached appendix, and will become effective 30 days after publication in the **Federal Register**.

12. The petition for clarification filed by Cisco Systems, Inc. is hereby granted. This action is taken pursuant to the authority contained in Sections 4(i), 301, 302, 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), and 303(r).

13. The petition for reconsideration filed by Marcus Spectrum Solutions is hereby granted in part and denied in part. This action is taken pursuant to the authority contained in Sections 4(i), 301, 302, 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), and 303(r).

14. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the *Memorandum Opinion and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 2

Communications equipment, Radio, Reporting, and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,
Deputy Secretary.

Final Rule

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 2 to read as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

Section 2.1(c) is amended by revising the definition of “software defined radio” to read as follows:

§ 2.1 Terms and definitions.

* * * * *

(c) * * *

Software defined radio. A radio that includes a transmitter in which the operating parameters of frequency range, modulation type or maximum output power (either radiated or conducted), or the circumstances under which the transmitter operates in accordance with Commission rules, can be altered by making a change in software without making any changes to hardware components that affect the radio frequency emissions. In accordance with § 2.944 of this part, only radios in which the software is designed or expected to be modified by a party other than the manufacturer and would affect the above-listed operating parameters or circumstances under which the radio transmits must be certified as software defined radios.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20 and 80

[WT Docket No. 04-257; FCC 07-87]

Maritime Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) amends its rules to afford licensees of VHF Public Coast (VPC) stations and Automated Maritime Telecommunications System (AMTS) stations additional operational flexibility to provide service to units on land. Specifically, the Commission adopts rule changes to permit VPC and AMTS licensees to offer private correspondence service to units on land, *i.e.*, private land mobile radio (PLMR) service, in addition to the public correspondence service they already are authorized to provide to units on land. These rule amendments will enable VPC and AMTS licensees to compete more effectively against other commercial mobile radio service providers; facilitate more efficient use of VPC and AMTS spectrum; and provide an additional means to meet growing demand for spectrum by PLMR licensees and end users, including public safety and critical infrastructure industry entities. The Commission also believes that the core purpose for which these frequencies have been allocated is to serve the communications needs of marine vessels, especially with respect

to communications in support of the safety of life and property at sea and on inland waterways.

DATES: Effective July 6, 2007.

FOR FURTHER INFORMATION CONTACT: Jeffrey Tobias, *Jeff.Tobias@FCC.gov*, Mobility Division, Wireless Telecommunications Bureau, (202) 418-1617, or TTY (202) 418-7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Report and Order* in WT Docket No. 04-257 (*Report and Order*), FCC 07-87, adopted on May 9, 2007, and released on May 10, 2007. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by sending an e-mail to fcc504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

1. The *Report and Order* addresses issues raised in the *Notice of Proposed Rule Making (NPRM)* in this WT Docket No. 04-257 proceeding. The Commission takes the following significant actions in the *Report and Order*: (i) Authorizes VPC and AMTS licensees to provide private correspondence service to units on land; (ii) specifies that AMTS stations providing private land mobile radio service do not have to be interconnected to the public switched telephone network, but retains that interconnection requirement for AMTS stations providing commercial mobile radio service; (iii) clarifies that VPC and AMTS licensees providing service to units on land must continue to ensure that maritime communications have priority, while also clarifying that a licensee's practice of dedicating separate channels for land mobile communications, on the one hand, and maritime communications, on the other, does not necessarily satisfy the maritime priority requirement although it may satisfy the requirement in certain circumstances; (iv) declines to permit VPC and AMTS licensees to provide service to units on land pursuant to regulations other than those in part 80, except pursuant to a waiver, and (v) declines to amend the part 80 rules to specify that VPC channels may be used for port operations and ship movement

services, either in simplex or duplex mode.

I. Procedural Matters

A. Paperwork Reduction Act Analysis

2. The *Report and Order* does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

B. Report to Congress

3. The Commission will send a copy of this *Report and Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

C. Final Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM* in this proceeding. The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Report and Order

5. The rules adopted in the *Report and Order* are intended to provide VHF public coast (VPC) station and Automated Maritime Telecommunications Service (AMTS) stations with the additional flexibility to offer non-interconnected private correspondence communications service to units on land.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

6. No comments were submitted specifically in response to the IRFA. In addition, no commenter has opposed the rule amendments adopted herein based on their potential economic impact on small entities. These rule amendments do not impose any new requirements or compliance burdens on any affected entity, but rather benefit such entities by providing them with additional operational flexibility.

Description and Estimate of the Number of Small Entities to Which Rules Will Apply

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

8. The adopted rules would affect licensees using AMTS and VPC spectrum. In the *Third Report and Order* in PR Docket No. 92-257, the Commission defined the term "small entity" specifically applicable to public coast station licensees as any entity employing less than 1,500 persons, based on the definition under the Small Business Administration rules applicable to radiotelephone service providers. See Amendment of the Commission's Rules Concerning Maritime Communications, *Third Report and Order and Memorandum Opinion and Order*, PR Docket No. 92-257, 13 FCC Rcd 19853, 19893 (1998) (citing 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812). Below, we provide the economic census category and data for wireless entities, which encompasses public coast stations.

9. *Wireless Service Providers*. The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397

firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

10. The *Report and Order* does not impose any reporting, recordkeeping, or other compliance requirements on small entities.

Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

11. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."

12. The rules adopted in the *Report and Order* will not have any adverse economic impact on small entities. To the contrary, they remove existing regulatory restrictions on the affected entities.

D. Report to Congress

13. The Commission will send a copy of this *Report and Order* in WT Docket No. 04-257, including the Final Regulatory Flexibility Analysis, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA. A copy of the *Report and Order* and the Final Regulatory Flexibility Analysis (or summaries thereof) will also be published in the **Federal Register**.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications

Commission amends 47 CFR parts 20 and 80 as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 154, 160, 201, 251–254, 303, and 332 unless otherwise noted.

■ 2. Amend § 20.9 by revising paragraphs (b) introductory text and (b)(1) to read as follows:

§ 20.9 Commercial mobile radio service.
* * * * *

(b) Licensees of a Personal Communications Service or applicants for a Personal Communications Service license, and VHF Public Coast Station geographic area licensees or applicants, and Automated Maritime Telecommunications System (AMTS) licensees or applicants, proposing to use any Personal Communications Service, VHF Public Coast Station, or AMTS spectrum to offer service on a private mobile radio service basis must overcome the presumption that Personal Communications Service, VHF Public Coast, and AMTS Stations are commercial mobile radio services.

(1) The applicant or licensee (who must file an application to modify its authorization) seeking authority to dedicate a portion of the spectrum for private mobile radio service, must include a certification that it will offer Personal Communications Service, VHF Public Coast Station, or AMTS service on a private mobile radio service basis. The certification must include a description of the proposed service sufficient to demonstrate that it is not within the definition of commercial mobile radio service in § 20.3. Any application requesting to use any Personal Communications Service, VHF Public Coast Station, or AMTS spectrum to offer service on a private mobile radio service basis will be placed on public notice by the Commission.
* * * * *

PART 80—STATIONS IN THE MARITIME SERVICES

■ 3. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

■ 4. Amend § 80.5 by revising the definition of “Automated maritime

telecommunications system” to read as follows:

§ 80.5 Definitions.
* * * * *

Automated maritime telecommunications system (AMTS). An automatic maritime communications system.
* * * * *

■ 5. Amend § 80.123 by revising the introductory text to read as follows:

§ 80.123 Service to stations on land.

Marine VHF public coast stations, including AMTS coast stations, may provide service to stations on land in accordance with the following:
* * * * *

■ 6. Amend § 80.371 by revising the introductory text of paragraph (c)(1)(i) to read as follows:

§ 80.371 Public correspondence frequencies.
* * * * *

(c) * * *

(1) (i) The frequency pairs listed in this paragraph are available for assignment to public coast stations for communications with ship stations and units on land.
* * * * *

■ 7. Amend § 80.475 by revising paragraph (c) and adding a new paragraph (d) to read as follows:

§ 80.475 Scope of service of the Automated Maritime Telecommunications System (AMTS).
* * * * *

(c) An AMTS system may provide private mobile radio service in addition to or instead of public correspondence service. However, such communications may be provided only to stations whose licensees make cooperative arrangements with the AMTS coast station licensees. In emergency and distress situations, services must be provided to ship stations without prior arrangements.

(d) AMTS systems providing private mobile radio service instead of, or in addition to, public correspondence service are not required to be interconnected to the public switched network when providing such private mobile radio service. AMTS systems providing public correspondence service must be interconnected to the public switched network, but the licensee may also offer non-interconnected services.

■ 8. Amend § 80.479 by revising paragraph (a) to read as follows:

§ 80.479 Assignment and use of frequencies for AMTS.

(a) The frequencies assignable to AMTS stations are listed in subpart H of this subpart.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070427094–7113–02, I.D. 042407A]

RIN 0648–AV50

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Allocation of Trips in the Closed Area II Yellowtail Flounder Special Access Program

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

ACTION: Final rule; allocation of trips.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has allocated zero trips to the Closed Area (CA) II Yellowtail Flounder Special Access Program (SAP) during the 2007 fishing year (FY) (*i.e.*, May 1, 2007, through April 30, 2008). The Regional Administrator has determined that the available catch of Georges Bank (GB) yellowtail flounder is insufficient to support a minimum level of fishing activity within the CA II Yellowtail Flounder SAP for FY 2007. The intent of this action is to help achieve optimum yield (OY) in the fishery by maximizing the utility of available GB yellowtail flounder total allowable catch (TAC) throughout FY 2007.

DATES: Effective July 1, 2007 through April 30, 2008.

ADDRESSES: Copies of the final rule implementing the FY 2007 TAC for GB yellowtail flounder in the U.S./Canada Management Area are available upon request from the NE Regional Office at the following mailing address: George H. Darcy, Assistant Regional Administrator for Sustainable Fisheries, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Copies may also be requested by calling (978) 281–9315.