

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Morgantown, Channel 256A.

3. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Au Gres, Channel 295A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[WT Docket No. 01-97; FCC 01-148]

Revision of the Authorized Duty Cycle for Stolen Vehicle Recovery Systems (SVRSs)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend a Commission rule in order to revise the authorized duty cycle for SVRS operations on 173.075 MHz. The rule change was proposed in response to a Petition for Rulemaking filed by LoJack Corporation. Specifically, we propose to permit a duty cycle for mobile units of 1800 milliseconds every 300 seconds, in addition to the current duty cycle of 200 milliseconds every 10 seconds.

DATES: Comments must be submitted on or before July 16, 2001, and reply comments are due on or before July 31, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4-C325, Washington, DC 20554, telephone (202) 418-0627 or by e-mail to fthyden@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking*, FCC 01-148, adopted April 27, 2001, and released May 7, 2001. The full text of this *Notice*

of *Proposed Rulemaking (NPRM)* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth St., SW., Washington DC.

The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, telephone (202) 857-3800, facsimile (202) 857-3805. The full text of the NPRM also can be downloaded at: <http://www.fcc.gov/Bureaus/Wireless/Orders/2001/fcc01148.wp>. Alternate formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426, TTY (202) 418-7365, or at bmillin@fcc.gov.

Summary of Notice of Proposed Rulemaking

1. On December 20, 1999, LoJack Corporation (LoJack) filed a Petition for Rulemaking seeking amendment of 47 CFR 90.20(e)(6) to revise the authorized duty cycle for SVRS operations on 173.075 MHz. LoJack indicates that use of a duty cycle of 1800 milliseconds permits the stolen vehicle recovery system to be activated by unauthorized movement. The mobile-to-base station "uplink" transmissions can be used to alert a control center, alert the vehicle owner in order to effect a prompt police theft report, and acknowledge base station activation and deactivation messages. LoJack submits that the new "uplink" feature obviates the need for repetitive transmissions by high-powered base stations, reducing the actual transmitting time on the channel by as much as a factor of 100:1. In order to benefit from these technological advances, a system must utilize the 1800 milliseconds cycle in addition to the 200 milliseconds cycle.

2. We believe the record warrants proposing amendment of 47 CFR 90.20(e)(6) to reflect current technological advancements that will benefit law enforcement and vehicle owners. By expediting the theft detection and reporting process, the "uplink" technology appears to greatly improve the chances for successful vehicle recovery and improves tracking efficiency. We invite comment on the merits of the proposal, specifically the public interest and public safety benefits associated with revising the duty cycle to permit the use of this new technology.

3. We believe that spectrum efficiency is an additional benefit of utilizing this new technology for recovering stolen vehicles. The "uplink" feature of the new system would be used to

acknowledge base station activation and deactivation messages, thereby obviating the need for repetitive transmissions by high-powered base stations. Although the "uplink" transmission will be greater in length than the tracking signal, the "uplink" transmissions will be fewer in number than the tracking signal. Viewing the proposal in its entirety, we believe that it would significantly reduce channel occupancy, and thereby promote spectrum efficiency. Commenters should address whether adoption of the proposal would advance efficient spectrum utilization.

4. The LoJack system transmits on a frequency of 173.075 MHz with an authorized bandwidth of 20 kHz. Therefore, interference to TV Channel 7 (174-180 MHz) reception is a concern. The possibility of interference to TV Channel 7 is largely determined by power and proximity. As such, it is the base station sites rather than the transponder units, that are of greater consequence. Nonetheless, transmissions by mobile units are restricted in order to reduce the impact of any potential interference from mobile units to TV Channel 7 reception. Instituting the 1800 millisecond duty cycle will not significantly increase the number of mobile transmissions. Consequently, we tentatively conclude that the possibility of interference from mobile units to TV Channel 7 will not significantly increase. Conversely, the number of base station transmissions needed for a typical stolen vehicle recovery sequence will be greatly reduced. Therefore, we tentatively conclude that the proposal will likely reduce the possibility of harmful interference to DTV and TV Channel 7 reception. Nevertheless, we invite commenters to address any concerns regarding interference to digital, as well as analog, broadcast operations on TV Channel 7.

5. In addition to proposing to modify the duty cycle rule, we invite comment on whether the public interest continues to be served by specification of the relevant duty cycles in our Rules. We seek comment on whether these concerns continue to merit specifying duty cycles, in whole or in part, or whether it is now appropriate to develop a rule permitting greater technical flexibility. Would elimination of a specified duty cycle for mobiles cause harmful interference to TV Channel 7 reception? Would removal of a duty cycle for base stations prevent competitive SVRS operations from commencing? In addition, would spectrum efficiency be impaired without specified duty cycles?

Commenters favoring removal of duty cycle limits also should explain the possible effect on the sharing of 173.075 MHz by the Federal Government, given that this is a shared frequency. Finally, we ask interested parties to address the question of what specific benefits could accrue from elimination of duty cycles for mobile and base transmitters.

Procedural Matters

6. *Ex Parte Rules Presentations.* This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, 1.1206(a).

7. *Comment Dates.* Pursuant to §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before July 12, 2001, and reply comments on or before July 27, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998).

8. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

9. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th street, S.W., Room TW-A325, Washington, D.C. 20554.

10. *Paperwork Reduction Analysis.* The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no proposed information collection.

11. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act (RFA), 5 USC 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Notice of Proposed Rule Making (NPRM)*. Written public comments are requested on this IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *NPRM* but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**. *See id.*

I. Need for, and Objectives of, the Proposed Rules

In the *NPRM*, we propose to change the duty cycle for mobile transmissions in stolen vehicle recovery systems contained in 47 CFR 90.20(e)(6) to 1800 milliseconds every three hundred seconds to permit use of new technology. Such modification would be in the public interest because it would enhance the efficient use of spectrum and permit greater efficiency in use of police resources to track and recover stolen vehicles and apprehend more individuals involved in such activities.

II. Legal Basis

Authority for issuance of this item is contained in sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r).

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

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 proposed rules, if adopted. *See* 5 U.S.C. 603(b)(3). The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act. *See* 5 U.S.C. 601(b)(3). A small business concern is one that: (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. *See* 5 U.S.C. 632. Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." *See* 5 U.S.C. 601(5).

This proposal will provide marketing opportunities for radio manufacturers, some of which may be small businesses. Beyond this we are unable to quantify the potential effects on small entities. We, therefore, invite specific comments on this point by interested parties.

IV. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The *NPRM* solicits comments that will not entail reporting, recordkeeping, and/or third-party consultation.

V. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed 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 or reporting requirements under the rule for 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 small entities. 5 U.S.C. 603.

As an alternative to modification of the subject rule, the Commission invited public comment on elimination of that rule, *i.e.*, specified duty cycles for mobile and base transmitters.

VI. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

None.

Ordering Clauses

12. *It Is Ordered* that, pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), *Notice Is Hereby Given* of proposed amendment to § 90.20(e)(6) of the Commission's rules, 47 CFR 90.20(e)(6), as described.

13. *It Is Further Ordered* that the Petition for Rulemaking, RM-9798, submitted by the LoJack Corporation on December 20, 1999 *Is Granted* to the extent indicated herein.

14. *It Is Further Ordered* that the Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Communications equipment, radio.
Federal Communications Commission.
Magalie Roman Salas,
Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(g), 303(r), and 332(c)(7).

2. Section 90.20 is amended by revising paragraph (e)(6) introductory text to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(e) * * *

(6) The frequency 173.075 MHz is available for stolen vehicle recovery systems on a shared basis with the Federal Government. Stolen vehicle recovery systems are limited to recovering stolen vehicles and are not authorized for general purpose vehicle tracking or monitoring. Mobile transmitters operating on this frequency are limited to 2.5 watts power output and base transmitters are limited to 300 watts ERP. F1D and F2D emissions may be used within a maximum authorized 20 kHz bandwidth. Transmissions from mobiles shall be limited to either 200 milliseconds every 10 seconds or 1800 milliseconds every 300 seconds, except that when a vehicle is being tracked actively, the transmissions under either duty cycle may be increased to 200 milliseconds every second. Applications for base stations operating on this frequency shall require coordination with the Federal Government. Applicants shall perform an analysis for each base station located within 169 km (105 miles) of a TV channel 7

transmitter of potential interference to TV channel 7 viewers. Such stations will be authorized if the applicant has limited the interference contour to fewer than 100 residences or if the applicant:

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[I.D. 052301C]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of final determination and discussion of underlying biological analysis.

SUMMARY: NMFS has evaluated the joint resource management plan (RMP), provided by the Washington Department of Fish and Wildlife and the Point-No-Point Treaty Tribes (Co-managers) for harvest of Hood Canal and Strait of Juan de Fuca summer-run chum salmon pursuant to the protective regulations promulgated for Hood Canal summer-run chum salmon under the Endangered Species Act (ESA). The RMP (the harvest component of the Summer Chum Salmon Conservation Initiative - An Implementation Plan to Recover Summer Chum Salmon in the Hood Canal and Strait of Juan de Fuca Region [SCSCI]) specifies the future management of commercial, recreational, and tribal salmon fisheries that potentially affect listed Hood Canal summer-run chum salmon.

This document serves to notify the public that NMFS, by delegated authority from the Secretary of Commerce, has determined that implementing and enforcing the RMP will not appreciably reduce the likelihood of survival and recovery of the Hood Canal summer-run chum salmon Evolutionarily Significant Unit (ESU). This document also includes a summary of the underlying biological analysis used in the determination (Evaluation).

DATES: The final determination on the take limit was made on April 27, 2001.

ADDRESSES: Sustainable Fisheries Division, National Marine Fisheries

Service, 7600 Sand Point Way NE, Seattle, Washington 98115-0070.

FOR FURTHER INFORMATION CONTACT:

Keith Schultz at: 206/526-4447, or e-mail: keith.schultz@noaa.gov regarding the RMP.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Hood Canal Summer-Run Chum Salmon (*Oncorhynchus keta*) ESU.

Electronic Access

The full texts of NMFS' determination, and the final Evaluation are available on the Internet at the NMFS, Sustainable Fisheries Division web site at: <http://www.nwr.noaa.gov/1sustfsh/limit6/index.html>.

The Summer Chum Salmon Conservation Initiative - An Implementation Plan to Recover Summer Chum Salmon in the Hood Canal and Strait of Juan de Fuca Region is available on the Internet at the State of Washington, Department of Fish and Wildlife web site: <http://www.wa.gov/wdfw/fish/chum/chum.htm>.

Background

The Washington Department of Fish and Wildlife and the Point-No-Point Treaty Tribes provided NMFS a jointly developed RMP for Hood Canal and Strait of Juan de Fuca summer-run chum salmon. The RMP encompasses Washington Coastal and Puget Sound salmon fisheries affecting the Hood Canal summer-run chum salmon ESU. Harvest objectives specified in the RMP account for fisheries-related mortality throughout the migratory range of Hood Canal and Strait of Juan de Fuca summer chum salmon, from Northern British Columbia, Canada to South Puget Sound. The RMP also includes implementation, monitoring and evaluation procedures designed to ensure fisheries are consistent with these objectives.

On March 13, 2001, at 66 FR 14551, NMFS published a notice of availability for public review and comment on its evaluation of how the Hood Canal summer-run chum salmon RMP addressed the criteria in § 223.203(b)(4) of the ESA 4(d) rule (65 FR 42477).

As required by § 223.203 (b)(6) of the ESA 4(d) rule, NMFS must determine pursuant to 50 CFR 223.209 and pursuant to the government to government processes therein whether the RMP for Hood Canal summer-run chum salmon would appreciably reduce the likelihood of survival and recovery of the Hood Canal Summer-Run Chum Salmon ESU and other affected threatened ESUs. NMFS must take comments on how the RMP addresses