

strength outside the parameters previously approved. When a Class III permissive change is made, the grantee shall supply the Commission with a description of the changes and test results showing that the equipment complies with the applicable rules with the new software loaded, including compliance with the applicable RF exposure requirements. The modified software shall not be loaded into equipment, and the equipment shall not be marketed with the modified software under the existing grant of certification, prior to acknowledgement by the Commission that the change is acceptable. A copy of the software shall be submitted to the Commission upon request. Class III changes are permitted only for equipment in which no Class II changes have been made from the originally approved device.

Note to paragraph (b)(3): Any software change that degrades spurious and out-of-band emissions previously reported to the Commission at the time of initial certification would be considered a change in frequency or modulation and would require a Class III permissive change or new equipment authorization application.

(4) Class I and Class II permissive changes may only be made by the holder of the grant of certification, except as specified below.

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[FR Doc. 01-24953 Filed 10-4-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 22, 24, and 64

[CC Docket No. 97-213; FCC 01-265]

Communications Assistance for Law Enforcement Act

AGENCY: Federal Communications Commission.

ACTION: Final rule; extension of compliance date.

SUMMARY: In this document, we grant in part the relief requested by the Cellular Telecommunications & Internet Association ("CTIA"). As requested by CTIA, we are temporarily suspending the September 30, 2001, compliance date for wireline, cellular, and broadband Personal Communications Services ("PCS") carriers to implement two Department of Justice ("DoJ")/Federal Bureau of Investigation ("FBI") "punch list" electronic surveillance capabilities. We deny CTIA's request for a blanket extension of the September 30, 2001, compliance deadline for these carriers to implement a packet-mode

communications electronic surveillance capability. However, given the imminence of the packet-mode compliance deadline, we grant these carriers until November 19, 2001 either to come into compliance or to seek individual relief.

DATES: The September 30, 2001, packet-mode communications compliance date for wireline, cellular, and broadband Personal Communications Services ("PCS") is extended until November 19, 2001. The punch list compliance deadline is temporarily suspended pending the Commission's final action on a decision by the United States Court of Appeals for the District of Columbia Circuit ("Court Remand Decision") that vacated four additional punch list capabilities that had been required by the Commission's Third Report and Order ("Third R&O") in this proceeding.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418-2452.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, CC Docket No. 97-213, FCC 01-265, adopted September 18, 2001, and released September 21, 2001. The full text of this Commission decision is available on the Commission's Internet site at www.fcc.gov. It is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's duplication contractor, Qualex International, (202) 863-2893, Room CY-B402, 445 12th Street, SW., Washington, DC 20554. Comments may be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>, or by e-mail to ecfs@fcc.gov.

Summary of the Order

1. In the Third R&O, released in August 1999, 65 FR 51710, September 24, 1999, the Commission specified technical requirements for wireline, cellular, and broadband PCS carriers to comply with the assistance capability requirements prescribed by the Communications Assistance for Law Enforcement Act of 1994 ("CALEA"). We took this action under Section 107(b) of CALEA in response to petitions filed with us that claimed that industry standards for electronic surveillance failed to satisfy the four general assistance capability requirements in Section 103 of CALEA. Under Section 107(a)(2) of CALEA (the "safe harbor" provision), carriers and manufacturers that comply with industry standards for electronic surveillance are deemed in compliance

with their specific responsibilities under Sections 103 and 106 of CALEA. The Commission is authorized, under Section 107(b) of CALEA, in response to a petition from any Government agency or person, to establish, by rule, technical requirements or standards if industry associations or standard-setting organizations fail to issue technical requirements or standards or if any Government agency or person believes that such requirements or standards are deficient.

2. In the Third R&O, we required that wireline, cellular, and broadband PCS carriers implement all electronic surveillance capabilities of the industry interim standard, J-STD-025—including two contested features of the interim standard, *i.e.*, a packet-mode communications capability and a location information requirement—and six of nine additional capabilities requested by DoJ/FBI, known as the "punch list" capabilities. While we required a packet-mode capability, we did not adopt specific technical requirements for packet-mode communications. Rather, we permitted carriers to deliver packet-mode data to be delivered to law enforcement agencies ("LEAs") under the interim standard pending further study of packet-mode communications by the telecommunications industry. We required that the capabilities covered by the "core" interim standard—including all uncontested requirements of J-STD-025, as well as the contested location information requirement—be implemented by June 30, 2000, and that the packet-mode and punch list capabilities be implemented by September 30, 2001.

3. Several parties challenged in the United States Court of Appeals for the District of Columbia Circuit six capabilities required by the Third R&O: location information and packet-mode communications, both of which were included in J-STD-025; and dialed digit extraction, party hold/join/drop, subject-initiated dialing and signaling, and in-band and out-of-band signaling, which are four of the six punch list capabilities requested by DoJ/FBI that we added to J-STD-025. In August 2000, the Court vacated and remanded to us for further proceedings those portions of the Third R&O pertaining to the four challenged punch list capabilities. The Court upheld our findings in the Third R&O regarding location information and packet-mode communications, but with respect to the latter stated: "CALEA authorizes neither the Commission nor the telecommunications industry to modify either the evidentiary standards or

procedural safeguards for securing legal authorization to obtain packets from which call content has not been stripped, nor may the Commission require carriers to provide the government with information that is "not authorized to be intercepted."

4. Following the Court Remand Decision, CTIA filed a petition to immediately suspend the September 30, 2001 compliance deadline for implementing the two unchallenged punch list capabilities—content of subject-initiated conference calls and timing information—and the packet-mode communications capability. In its petition, CTIA states that the compliance deadline for those capabilities should be suspended to ensure an orderly and cost-efficient implementation of the punch list and packet-mode communications capabilities. With respect to the punch list, CTIA argues that disentangling the four vacated capabilities from the two remaining capabilities would be a complex and inefficient process. CTIA therefore recommends that we suspend the compliance date for the entire punch list pending resolution of what capabilities are required. With respect to packet-mode communications, CTIA argues that the Court found that telecommunications carriers could not lawfully deliver the full content of a packet to a LEA under a "pen register" order. CTIA further argues that we may receive petitions that request that we declare the current packet-mode standard deficient because it fails to protect the privacy of communications not authorized to be intercepted. Accordingly, CTIA argues that it would be prudent for us to suspend the packet-mode compliance deadline until we have all of the information necessary to make a realistic compliance determination.

5. On September 1, 2000, our Office of Engineering and Technology ("OET") placed the CTIA Petition on Public Notice and on September 15, 2000, OET received comments responding to the CTIA Petition. The great majority of commenting parties support grant of the Petition; however, DoJ/FBI oppose any extension of the packet-mode compliance deadline.

6. In April 2000, we issued a Public Notice providing instructions for those carriers needing to file petitions for extension of the June 30, 2000 deadline for complying with the capability requirements of CALEA section 103. In that Public Notice, we noted that section 107(c)(3) authorizes us to extend the compliance deadline for no longer than two years from the date of the petition's grant. We also noted that the FBI has

provided each carrier an opportunity to participate in a "Flexible Deployment Program," under which the FBI has agreed to review a carrier's extension request in light of the priorities of LEAs. We further noted that, for carriers serving geographic areas that do not have a history of demand by LEAs for electronic surveillance, the FBI may advise us that extensions of the section 103 compliance deadline do not unduly threaten the public safety. Accordingly, we urged each carrier seeking an extension of the June 30, 2000 CALEA deadline to participate in the Flexible Deployment Program before submitting to us a section 107(c) petition for extension of time to comply. A number of carriers chose to participate in the Flexible Deployment Program, and we have made preliminary determinations to suspend the June 30, 2000 deadline for many of those carriers. On August 15, 2001, our Common Carrier Bureau released an Order making final determinations to grant extensions of the June 30, 2000, deadline to several hundred wireline carriers. We anticipate making final determinations on other wireline—as well as wireless—carriers' requests for extensions of that deadline in the near future. We also note that in August 2001 the FBI released a Second Edition of its Flexible Deployment Program. This Second Edition pertains to packet-mode communications and is designed to assist carriers in meeting packet-mode requirements mandated by CALEA.

7. There is broad agreement among industry and law enforcement that we should suspend the September 30, 2001 compliance deadline for the two unchallenged punch list capabilities, pending a final action by the Commission of what punch list capabilities will be required. We agree with the majority of commenters that retaining the current deadline for two of the punch list capabilities prior to determining the disposition of the four punch list capabilities vacated by the Court Remand Decision could result in major inefficiencies for carriers. Moreover, there is insufficient corresponding benefit in implementing these two capabilities by themselves to warrant disruption and costs such as severable implementation would entail. Most carriers use more than one type of switch in their networks, often from different manufacturers. Most manufacturers have developed a CALEA solution that includes all six punch list capabilities that the Third R&O required; some manufacturers have included the core interim standard and the punch list capabilities in one

software package, others have separated the core interim standard and punch list capabilities into different software packages. Some software packages allow each punch list capability to be toggled, while other software packages do not allow toggling. In either case, carriers have to install and test the full software package. Carriers will have to test software with toggling functions to ensure that toggling off some capabilities does not interfere with the provision of other capabilities. For those software packages that do not allow toggling, carriers would have to implement the whole software package by the current September 30, 2001 deadline, absent an extension from the Commission, if the software could not be modified before then either to remove the four vacated punch list capabilities or to provide a toggle on/off function. While we believe that LEAs will cooperate with carriers to minimize the burden on carriers, we find, under these circumstances, such an approach to be inherently burdensome and inefficient. Furthermore, a temporary suspension of the compliance date for the unchallenged capabilities will ensure that all punch list capabilities that may ultimately be required will proceed on the same compliance schedule. In any event, we anticipate that we would likely receive and grant many individual petitions for extension, which would be an unwarranted exercise and expenditure of resources. While we encourage carriers to make available to LEAs any surveillance capability they have available, we recognize that the deployment of software with the punch list capabilities will vary from carrier to carrier.

8. Accordingly, pursuant to our authority to provide a reasonable time and conditions for compliance with and the transition to any new standard, we are temporarily suspending the current September 30, 2001, deadline for all punch list capabilities, including the two unchallenged punch list capabilities (i.e., subject-initiated conference calls and timing information), pending the Commission's final action on the Court Remand Decision. We anticipate that we will establish a new compliance date for all required punch list capabilities in time to allow carriers to be fully CALEA-compliant no later than June 30, 2002. We arrive at this outside target date because we intend to address the Court Remand Decision no later than year's end. We intend to act as expeditiously as possible on the remand, before year's end if possible, believing it to be a priority of this agency. The record

indicates that carriers can implement any required changes to their software within six months of our decision.

9. With regard to a packet-mode communications electronic surveillance capability, we find no need to extend the September 30, 2001, compliance deadline in the blanket manner requested by CTIA. While we deny CTIA's section 107(c) petition for a blanket extension for the reasons stated above, we believe that the record supports a brief extension in order to allow carriers additional time for compliance with and transition to the packet-mode standards. Given the imminence of the September 30, 2001 deadline, we believe that a brief extension is necessary to allow carriers additional time to upgrade their systems to incorporate the packet-mode capability or to allow any carriers wishing to avail themselves of the section 107(c) petition procedure a reasonable amount of time to prepare their petitions, including the technical justification required therein. Briefly extending the deadline will also provide any carriers that wish to voluntarily participate in the FBI's Flexible Deployment Program with respect to packet-mode communications the time necessary to prepare the documentation, including technical data relating to the carrier's system, as required under the program and allow Commission staff to announce the section 107(c) filing procedures with respect to packet-mode communications. Accordingly, pursuant to our authority under section 107(b)(5) of CALEA and sections 4(i) and (j) of the Communications Act, we grant, *sua sponte*, an extension until November 19, 2001, for wireline, cellular, and broadband PCS carriers to implement a packet-mode capability. We view this brief extension as extraordinary relief necessary in the interests of fairness and reasonableness and do not expect to grant any further extensions on an industry-wide basis with respect to packet-mode communications. We therefore encourage any carriers unable to meet the November 19, 2001 deadline to seek individual relief under the section 107(c) procedures. In this regard, we direct the Common Carrier Bureau and the Wireless Telecommunications Bureau to release a Public Notice further explaining the section 107(c) petitioning process with respect to packet-mode communications.

10. Pursuant to sections 1, 4, 229, 301, 303, and 332 of the Communications Act of 1934, as amended, and section 107(b) of the Communications Assistance for Law Enforcement Act, 47 U.S.C. 151, 154, 229, 301, 303, 332, and

1006(b), the Petition to Suspend Compliance Date, filed August 23, 2000 by CTIA, is *Granted in part and denied in part*.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01-24955 Filed 10-4-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 01-233; MM Docket No. 95-88; RM-8641; RM-8688; RM-8689]

Radio Broadcasting Services; Rose Hill, Trenton, Aurora, and Ocracoke, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule, denial.

SUMMARY: This document denies an Application for Review filed by Connor Media Corporation directed to the *Report and Order* in this proceeding. See 61 FR 66618, published December 18, 1996. Specifically, that action allotted Channel 283A to Aurora, North Carolina. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418-2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 95-88, adopted August 13, 2001, and released August 17, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01-24954 Filed 10-4-01; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

RIN 1018-AH72

Import of Polar Bear Trophies From Canada: Change in the Finding for the M'Clintock Channel Population

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Affirmation of emergency interim rule as final rule.

SUMMARY: The Fish and Wildlife Service is adopting the emergency interim rule published on January 10, 2001, as a final rule without substantive change. This rule amended our regulations, under the Marine Mammal Protection Act (MMPA), on the import of polar bears (*Ursus maritimus*) taken by sport hunters in the M'Clintock Channel population, Nunavut Territory, Canada. Current information indicates that this population has severely declined and harvest quotas have not ensured a sustainable population level. In the emergency interim rule, we found that the M'Clintock Channel population no longer meets the import requirements of the MMPA and amended our regulations to reflect that bears sport hunted in this population after the 1999/2000 Canadian hunting season will no longer be eligible for import under the 1997 finding which approved this population for multiple harvest seasons. In addition, the emergency interim rule updated our regulations to reflect the formation of the new territory of Nunavut and notified the public on the lifting by Canada of the harvest moratorium in the Viscount Melville Sound polar bear population. This final rule presents the best available information on the M'Clintock Channel population and addresses comments received on the emergency interim rule.

DATES: This final rule is effective on January 10, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Teiko Saito, Chief, Division of Management Authority, Fish and Wildlife Service, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; telephone (703) 358-2093; fax (703) 358-2280; e-mail fw9ia_dma@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

The 1994 amendments to the MMPA (section 104(c)(5)(A)) allow for the issuance of permits to import sport-hunted polar bear trophies from Canada