

Captain of the Port, via the Biscayne Bay Pilots on VHF-FM Channel 12 or 16.

(10) All vessels anchored within the anchorage area shall maintain a 24-hour bridge watch by an English speaking licensed deck officer monitoring VHF-FM Channel 16. This individual shall perform frequent checks of the vessel's position to ensure the vessel is not dragging anchor.

(11) Vessels experiencing casualties such as a main propulsion, main steering or anchoring equipment malfunction or which are planning to perform main propulsion engine repairs or maintenance, shall immediately notify the Coast Guard Captain of the Port via the Coast Guard Group Miami on VHF-FM Channel 16.

(12) The Coast Guard Captain of the Port may close the anchorage area and direct vessels to depart the anchorage during periods of adverse weather or at other times as deemed necessary in the interest of port safety.

Dated: April 13, 1999.

**G.W. Sutton,**

*Captain, U.S. Coast Guard, Acting  
Commander, Seventh Coast Guard District.*  
[FR Doc. 99-10431 Filed 4-26-99; 8:45 am]

BILLING CODE 4910-15-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Part 16

[USCG-1998-4469]

RIN 2115-AF67

### Management Information System (MIS) Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is changing the Management Information System (MIS) annual reporting requirements for chemical drug testing. The Office of Management and Budget (OMB) had requested that the Coast Guard reduce its collection of information effort. This final rule will exempt certain marine employers from submitting the annual MIS report and will eliminate the requirement for all marine employers to notify the Coast Guard when a consortium or other party submits the employer's annual report.

**DATES:** This final rule is effective May 27, 1999.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, (USCG-1998-

4469), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington DC 20590-0001. You may also access docket materials over the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this rule, contact Lieutenant Jennifer Ledbetter, Coast Guard, telephone 202-267-0684. For questions on viewing, or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

The Coast Guard published a notice of proposed rulemaking entitled "Management Information System (MIS) Requirements" in the **Federal Register** on December 24, 1998 [63 FR 71257]. The Coast Guard received five letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

At the close of the comment period for the NPRM, we mailed a letter to all 82 marine employers who, based on our records, would be exempt from filing the MIS report this year if the proposal were made final. The letter extended the MIS report-filing deadline for these employers by 90 days, to give the Coast Guard time to publish its final rule before these employers would be required to file their annual report.

##### Background and Purpose

The Office of Management and Budget (OMB) requested that the Coast Guard reduce the amount of information collected under the Management Information System (MIS) annual reporting requirements for chemical testing data. The required reports provide drug and alcohol testing information from marine employer chemical testing programs. The Coast Guard and OMB discussed how to reduce the annual reporting requirements for chemical drug testing information. The reductions discussed with OMB are set out in this final rule.

##### Discussion of Comments

The Coast Guard received five written comments in response to the notice of proposed rulemaking. All comments were considered in developing the final rule.

One of the comments made suggestions concerning aspects of chemical testing not addressed in this rulemaking. Those suggestions have been forwarded to the program manager for consideration.

##### Written Notification Requirement

Four of the comments supported (the fifth comment did not address) the proposal to eliminate the requirement for marine employers in a drug-testing consortium to notify the Coast Guard in writing that the consortium will submit the employer's annual MIS report.

##### Annual MIS Report Submission Requirement

Two of the comments supported the proposal to exempt marine employers with 10 or fewer employees who have submitted the MIS report for 3 consecutive years from further submissions of the report.

Three of the comments objected to the proposal to exempt these marine employers from submitting the MIS report. The comments expressed concern that the exemption would negatively affect the Coast Guard's yearly calculations for determination of the random testing rate for the next year.

The Coast Guard used three years of actual data (1995-1997) to calculate what the random testing rate would have been if eligible employers had not submitted reports starting with 1995. We found that the difference in data attributable to exemption of employers with 10 or fewer employees would not have resulted in a different annual random rate determination for any of those years. A copy of these calculations is available in the docket for review.

We are, therefore, adopting the proposed exemption without change in this final rule.

##### Discussion of Rule

Part 16 of Title 46 of the Code of Federal Regulations requires all marine employers to collect chemical drug and alcohol testing data from their programs. It also requires marine employers to submit this data to the Coast Guard in an annual MIS report. Specific requirements for collecting and submitting this data are listed in § 16.500. Marine employers must submit all chemical drug and alcohol testing data on Form CG-5573 found in Appendix B of 46 CFR part 16. Section 16.500 allows a consortium or other employer representative to submit the chemical drug and alcohol testing data for a marine employer. Unless submitting their own report, marine employers must notify us in writing each year naming the consortium or other employer representative submitting the report.

We are incorporating the following changes to our MIS reporting requirements:

- Removing the requirement for marine employers to notify the Coast

Guard in writing each year that a consortium or other employer representative will submit the annual MIS report.

- Removing the annual MIS report submission requirement for marine employers with 10 or fewer employees subject to testing by Part 16 (covered employees) after submission of the third consecutive annual MIS report.
- Reorganizing § 16.500, incorporating these changes and revising the language for clarity.

**Written Notification Requirement**

We are removing the written notification requirement in § 16.500(c) for marine employers included in a consolidated annual MIS report to inform the Coast Guard of the name of the consortium or other representative submitting the annual MIS report. Since consortiums must submit a list of employers included in their annual MIS report, the individual written notifications are no longer needed. We can use the consortium lists to determine employer compliance with the reporting requirements. This change will apply to all marine employers.

**Annual MIS Report Submission Requirement**

We are also removing the annual MIS report submission requirement for marine employers with 10 or fewer covered employees after they have submitted the annual MIS report (Form CG-5573) for three consecutive years since January 1, 1996. Marine employers who have already met the submission requirement for the three preceding years can use the new exemption this year and each following year during which they have no more than 10 covered employees.

This final rule will not change the recordkeeping requirement for marine employers. All marine employers must continue collecting and keeping the required drug testing data, making it available to the Coast Guard if requested.

**Editorial Changes**

We have also made several editorial changes and clarified the language in § 16.500. We have reorganized and

shortened the paragraphs and simplified the regulatory language. None of these editorial changes substantively change existing requirements.

The two substantive changes to the MIS reporting requirements will reduce the reporting burden on marine employers but will still ensure that we receive adequate chemical testing data for analysis and program management.

**Regulatory Evaluation**

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

**Written Notification Requirement**

This rule removes the written notification requirement for marine employers using a consortium or other party to submit their annual MIS reports. Marine employers using a consortium or other representative to file annual MIS reports will no longer need to submit written notification to the Coast Guard.

According to current MIS data, 7,150 marine employers are members of consortiums. The cost of each written notification is approximately \$12 (15 minutes of administrative time at \$45 per hour to draft the written notification). This change will reduce the employer reporting burden by a total of 5,361 hours and \$241,313 for 3 years.

**Annual MIS Report Submission Requirement**

This rule removes the annual MIS report (Form CG-5573) submission requirement for marine employers with 10 or fewer covered employees who submit an individual annual MIS report, and who have submitted the required MIS reports for three consecutive years since January 1, 1996. The estimated response burden for each MIS form submitted is calculated at \$45 per hour, with each form averaging about one hour to complete. The MIS data from

1994 through 1997 indicated an average of 885 forms submitted annually to the Coast Guard. The forms represent 860 individual employer submissions and 25 consortium submissions consolidating data for 7,150 employers.

The 1997 MIS data indicated that 354 of the 885 forms received were submitted by employers with 10 or fewer covered employees. We are removing the annual MIS report submission requirement for marine employers with 10 or fewer covered employees who have filed the report for three consecutive years since January 1, 1996. Of the 354 employers, 82 have filed three consecutive annual MIS reports since January 1, 1996, and will not need to submit an annual MIS report in 1999. These marine employers will also be exempt from submitting the annual MIS report each following year during which they have no more than 10 covered employees. An additional 92 marine employers will be qualified for the exemption in 2000 and the remaining 180 will be qualified for exemption in 2001.

This exemption will result in the following costs during the first three years for the MIS form submission for employers with 10 or fewer covered employees: Initial year, 272 forms (354 - 82) × \$45 = \$12,240, the second reporting year, 180 forms (272 - 92) × \$45 = \$8,100, and the final reporting year will have no costs.

The total reporting burden for the remaining 531 forms from consortiums (25 forms) and employers (506 forms) with 11 or more covered employees will cost \$23,895 annually. The three-year cost will be \$71,685 (\$23,895 × 3 years). Combined with the costs for 10 or fewer covered employees of \$20,340, results in a cost of \$92,025 (\$20,340 + \$71,685).

The total recordkeeping costs for MIS requirements will not change and will remain at \$39,825 annually. The three-year cost will be \$119,475 (\$39,825 × 3 years). The total costs to the marine industry for the three year period will be \$211,500 [\$92,025 (reporting) + \$119,475 (recordkeeping)].

The following table summarizes the reporting and recordkeeping burden for Subcategory III by the end of 3 years.

MIS BURDEN SUMMARY

Year	Employer category	Annual MIS report	Notification letter	Recordkeeping	Total burden hours and costs
1	≤10 employees ..... ≥11 employees ..... Consortiums .....	Hours: 803 hrs Costs: \$36,135 272 forms × \$45/hour 506 forms × \$45/hour 25 forms × \$45/hour	Letters: 0 Requirement Removed	Hours: 885 hrs Costs: \$39,825	Burden Hours: 1,688 hrs. Costs: \$75,960.

## MIS BURDEN SUMMARY—Continued

Year	Employer category	Annual MIS report	Notification letter	Recordkeeping	Total burden hours and costs
2	≤10 employees	Hours: 711 hrs Costs: \$31,995 180 forms × \$45/hour	Letters: 0 Requirement Removed	Hours: 885 hrs Costs: \$39,825 No Change	Burden Hours: 1,596 hrs. Costs: \$71,820.
	≥11 employees Consortiums	506 forms × \$45/hour 25 forms × \$45/hour Hours: 531 hrs Costs: \$23,895		Hours: 885 hrs Costs: \$39,825	
3	≤10 employees	0 forms × \$45/hour	Letters: 0 Requirement Removed	No Change	Burden Hours: 1,416 hrs. Costs: \$63,720.
	≥11 employees Consortiums	506 forms × \$45/hour 25 forms × \$45/hour			
					3-Year Total: Burden Hours: 4,700 hrs. Costs: \$211,500.

The cost to the Coast Guard for each MIS report submitted is calculated at approximately \$15 per report. Each report averages about \$15 to review, collate, and file this information with the responsible research center. This costs the Coast Guard about \$30,675 (2,045 reports submitted × \$15) for the 3-year period.

#### Summary of Benefits

This final rule removes the written notification requirement in § 16.500 for marine employers who do not submit their own annual MIS report to inform the Coast Guard in writing the name of the consortium or other representative submitting their annual MIS report. Marine employers using a consortium or other representative to file annual MIS reports will no longer need to submit written notification to the Coast Guard. According to current MIS data, 7,150 marine employers are members of consortiums. This final rule will reduce the employer reporting burden by a total of 5,361 hours (1,787 hours per year) and \$241,313 (\$80,438 per year). This final rule removes the annual notice requirement for all marine employers who report through their respective consortium. The rule will also reduce the reporting requirement for all marine employers of 10 or fewer covered employees to submit the annual MIS form for chemical and drug testing data.

This final rule will reduce the employer reporting burden hours by a total of 5,715 hours (5,361 Notification Letter 43 354 MIS Report) at \$257,243 (\$241,313 Notification Letter 43 \$15,930 MIS Report) by the end of 3 years.

This final rule will also benefit the marine industry by reducing the reporting requirements for certain marine employers by 40%. By exempting those employers with 10 or

fewer covered employees who have provided the required MIS reports for three consecutive years since January 1, 1996, industry will save \$15,930 in reporting costs for the three-year period.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule will only affect small entities by reducing their annual reporting burden. The MIS data indicates how many employees are subject to chemical drug testing, not the total number of employees. However, those marine employers with 10 or fewer employees are most likely considered small entities. This rule will reduce the reporting burden and will not create an additional burden for this group or any other marine employers. This final rule will reduce the employer reporting burden hours by a total of 5,715 hours (5,361 Notification Letter 43 354 MIS Report) at \$257,243 (\$241,313 Notification Letter 43 \$15,930 MIS Report) by the end of 3 years.

This rule will result in a maximum savings, each year, for small entities of one hour and 15 minutes of administrative time valued at \$57.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

#### Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. We received no comments raising small entity issues.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### Collection of Information

This final rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As defined in 5 CFR 1320.3(c), "collection of information" includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of the respondents, and an estimate of the total annual burden follow. Included in the estimate is the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

*Title:* Collection of Commercial Vessel and Personnel Accident (Marine Casualty) Information and Programs for Chemical Drug & Alcohol Testing of Commercial Vessel Personnel, including Required Drug and Alcohol Testing following a Serious Marine Accident

*Summary of the Collection of Information:* 46 U.S.C. 6101 authorizes the Coast Guard to prescribe regulations for the annual MIS reporting requirements for chemical drug testing. Section 16.500 contains the requirement for all marine employers to collect chemical drug and alcohol testing data for their employees. All marine employers must submit this data to the Coast Guard in an annual MIS report. Marine employers must submit all chemical drug and alcohol testing data on Form CG-5573 found in Appendix B of 46 CFR Part 16. This final rule will eliminate the annual MIS report submission requirement for employers with 10 or fewer covered employees who have provided the required MIS reports for three consecutive years since January 1, 1996.

The annual burden of the MIS reporting requirements to industry was developed from employer size, employer reports, and type of submitter. The annual burden estimates are based on data from 1994 through 1997. In 1997 the Coast Guard received 354 individual reports from employers with 10 or fewer covered employees. This rule will exempt these marine employers (following their third consecutive submission) from submitting the annual MIS report each following year during which they have no more than 10 covered employees. This will result in a total annual reporting burden reduction of 354 hours with a 40% reduction in the number of forms submitted to the Coast Guard with only a 4% reduction in data.

After employers with 10 or fewer covered employees are exempted, the annual average reporting burden is 531 reports representing 7,656 employers. This consists of 506 reports from employers with 11 or more employees and 25 reports from consortiums representing approximately 7,150 employers.

*Need for Information:* The requirement to submit MIS information will help meet the goal of knowing the location of all marine employers and ensuring complete compliance with drug testing regulations.

*Proposed Use of Information:* The Coast Guard will utilize this information to identify significant trends of drug abuse in the marine industry through program implementation.

*Description of the Respondents:* Consortia and independent marine employers who collect and submit chemical and drug testing data for their employees.

*Number of Respondents:* 7,656 marine employers who collect and submit chemical and drug testing data for their employees.

*Frequency of Response:* Affected marine employers are required to submit anti-drug program reports on an annual basis.

*Burden of Response:* All marine employers must submit data from their chemical testing program to the Coast Guard in the annual MIS report (Form CG-5573). A consortium or other employer representative may submit the data for a marine employer. After submission of the third annual MIS report, this rulemaking will reduce the reporting requirement for all marine employers with 10 or fewer covered employees by not requiring them to submit the annual MIS form for chemical drug and alcohol testing data for succeeding years during which they had no more than 10 covered employees.

*Estimated Total Annual Burden:* 7,656 marine employers.

As required by 5 U.S.C. 3507(d), the Coast Guard submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has approved the collection. The section number is 16.500, and the corresponding approval number from OMB is OMB Control Number 2115-0003, which expires on January 31, 2002.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### **Federalism**

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

#### **Environment**

The Coast Guard considered the environmental impact of this final rule and concluded that, under figure 2-1, paragraph (34)(a) of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. The final rule will exempt certain marine employers from submitting the annual MIS report for chemical drug testing and

will eliminate the requirement for written notification. The final rule makes only administrative changes to a currently approved information collection for the annual MIS report. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### **Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104-4, 109 Stat. 48] requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain Federal mandates. A "Federal mandate" is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, \$100 million or more in any one year, the UMRA analysis is required. This rule does not impose Federal mandates on any State, local, or tribal governments, or the private sector.

#### **Other Executive Orders on the Regulatory Process**

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this rule and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This rule will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This rule will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

E.O. 12988, Civil Justice Reform. This rule meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 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 safety disproportionately affecting children.

#### **List of Subjects in 46 CFR Part 16**

Chemical testing, Data collection, Data reporting.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 16 as follows:

#### PART 16—CHEMICAL TESTING

1. The authority citation for part 16 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; 49 CFR 1.46.

2. Revise § 16.500 to read as follows:

##### § 16.500 Management Information System requirements.

(a) *Data collection.* All marine employers must collect the following drug and alcohol testing program data for each calendar year:

(1) Total number of employees during the calendar year that were subject to the drug testing rules in this part.

(2) Number of employees subject to testing under the anti-drug rules of both the Coast Guard and another DOT agency based on the nature of their assigned duties as identified by each agency.

(3) Number of drug and alcohol tests conducted identified by test type. Drug test types are pre-employment, periodic, random, post-accident, and reasonable cause. Alcohol test types are post-accident and reasonable cause.

(4) Number of positive drug test results verified by a Medical Review Officer (MRO) by test type and types of drug(s). Number of alcohol tests resulting in a blood alcohol concentration weight of .04 percent or more by test type.

(5) Number of negative drug and alcohol test results reported by MRO by test type.

(6) Number of applicants denied employment based on a positive drug test result verified by an MRO.

(7) Number of marine employees with a MRO-verified positive test result who returned to duty in a safety-sensitive position subject to required chemical testing, after meeting the requirements of § 16.370(d) and part 5 of this chapter.

(8) Number of marine employees with positive drug test results verified by a MRO as positive for one drug or a combination of drugs.

(9) Number of employees required under this part to be tested who refused to submit to a drug test.

(10) Number of covered employees and supervisory personnel who received the required initial training.

(b) *Data reporting.* (1) By March 15 of the year following the collection of the data in paragraph (a) of this section, marine employers must submit the data on Form CG-5573 to Commandant (G-MOA), 2100 Second Street, SW, Washington, DC, 20593-0001. Marine

employers must complete all data fields on the form.

(2) Form CG-5573 is reproduced in Appendix B of this part and you may obtain the form from any Marine Inspection Office. You may also download a copy of Form CG-5573 from the U.S. Coast Guard Marine Safety and Environmental Protection web site at <http://www.uscg.mil/hq/g-m.html>.

(3) A consortium or other employer representative may submit data for a marine employer. Reports may contain data for more than one marine employer. Each report, however, must list the marine employers included in the report.

(4) Marine employers must ensure that data submitted by a consortium or other employer representative under paragraph (b)(3) of this section is correct.

(c) After filing 3 consecutive annual MIS reports since January 1, 1996, required by paragraph (b) of this section, marine employers with 10 or fewer covered employees may stop filing the annual report each succeeding year during which they have no more than 10 covered employees.

(d) Marine employers who conduct operations regulated by another Department of Transportation Operating Administration must submit appropriate data to that Operating Administration for employees subject to that Operating Administration's regulations.

Dated: April 18, 1999.

**R. C. North,**

*Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 99-10553 Filed 4-26-99; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Parts 0, 2 and 15

[ET Docket No. 98-76; FCC 99-58]

##### Rules To Further Ensure That Scanning Receivers Do Not Receive Cellular Radio Signals

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The *Report and Order* amends the Commission rules to further prevent scanning receivers from receiving cellular radio telephone signals. It also codifies the provisions of section 705(e)(4) of the Communications Act of 1934 into our rules and requires a label on scanning receivers to indicate that modification of the receiver to receive

Cellular Service transmissions is a violation of FCC rules and Federal Law. These requirements will ensure the privacy of communications in the Cellular Service.

**DATES:** This final rule is effective October 25, 1999.

*Compliance Dates:* The manufacture or importation of scanning receivers, and frequency converters designed or marketed for use with scanning receivers, that do not comply with the provisions of § 15.121 shall cease on or before October 25, 1999. After July 26, 1999 the Commission will not grant equipment authorization for receivers that do not comply with the provisions of § 15.121. These rules do not prohibit the sale or use of authorized receivers manufactured in the United States, or imported into the United States, prior to October 25, 1999.

**FOR FURTHER INFORMATION CONTACT:** Rodney P. Conway (202) 418-2904 or via electronic mail: [rconway@fcc.gov](mailto:rconway@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, ET Docket 98-76, FCC 99-58, adopted March 25, 1999 and released March 31, 1999. A full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room TW-A306), 445 12th Street, SW Washington, DC 20554, and also may be purchased from the Commission's duplication contractor, International Transcription Service, phone (202) 857-3800, facsimile (202) 857-3805, 1231 20th Street, NW Washington DC 20036.

##### Summary of the Report and Order

1. The *Report and Order* (R&O) amends the rules to modify the definition of a scanning receiver to include scanning receivers that switch among two or more frequencies to deter the manufacture of scanning receivers that automatically scan less than four frequencies to circumvent the Commission's rules.

2. The R&O also amends the rules to define test equipment as equipment that is intended primarily for purposes of performing measurements or scientific investigations. The definition is sufficiently clear to prevent individuals from marketing scanning receivers that receive Cellular Service transmissions as test equipment.

3. The R&O also amends the rules to require that scanning receivers provide at least 38 dB rejection of Cellular Service signals for any frequency to which the scanning receiver can be tuned. In addition, the R&O amends the rules to require that scanning receivers