

amendment to part 1 contained in 64 FR 63235 otherwise effective on that date.

**Andrew S. Fishel,**  
Managing Director.

#### Rule Change

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), and 309.

2. Section 1.1202 (d)(2) is revised to read as follows:

#### § 1.1202 Definitions.

\* \* \* \* \*

(d) \* \* \*

(2) Any person who files a complaint or request to revoke a license or other authorization or for an order to show cause which shows that the complainant has served it on the subject of the complaint or which is a formal complaint under 47 U.S.C. 208 and § 1.721 of this chapter or 47 U.S.C. 255 and either §§ 6.21 or 7.21 of this chapter, and the person who is the subject of such a complaint or request that shows service or is a formal complaint under 47 U.S.C. 208 and § 1.721 of this chapter or 47 U.S.C. 255 and either §§ 6.21 or 7.21 of this chapter;

\* \* \* \* \*

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 2

[CI Docket 98-69; FCC 99-326]

#### Importation of Devices Capable of Causing Harmful Interference

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Commission's rules in order to prevent the importation of illegal radio frequency (RF) devices. It also eliminates the need for importers to file a duplicate FCC Form 740 with the FCC when importing devices into the United States.

**EFFECTIVE DATE:** February 28, 2000.

**FOR FURTHER INFORMATION CONTACT:** David Sturdivant, Enforcement Bureau, 202-418-1160.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the *Second Report and Order*, CI Docket 98-69, adopted October 29, 1999 and released November 5, 1999.

The full text of this *Second Report and Order* is available for inspection and copying during normal business hours in the FCC's Public Reference Center Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554. The complete text may also be purchased from the Commission's duplication contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, D.C. 20036; phone (202) 857-3800, facsimile (202) 857-3805.

#### Synopsis of the Second Report and Order

The Second Report and Order amends the Commission's rules concerning the importation of devices capable of causing harmful interference. These rule amendments simplify the process importers use to import radio frequency devices into the United States.

The Federal Communications Commission (FCC) requires that radio frequency (RF) devices imported into the United States comply with FCC rules. The FCC released an *Order and Notice of Proposed Rule Making* [63 FR 53901] on June 5, 1998. This document sought to clarify rule language that could allow the importation of illegal RF devices. The FCC, working in conjugation with the United States Customs Service, help to prevent the importation of illegal RF devices. The FCC Form 740 is used by importers to declare that imported RF devices comply with applicable FCC technical requirements. This form, along with its electronic equivalent, is filed with the U.S. Customs Service.

In order to curtail abuse of the import-for-export provision of the Commission's rules, we have modified the rule to prevent the entry of illegal RF devices. This rule allows the importation of devices that do not have FCC authorization under the condition the devices will be exported. A provision of the rule prevented a device from being marketed or offered for sale for use in the United States. It was the Commission experience that some unscrupulous importers would take advantage of this provision in order to import and sell illegal RF devices to customers for use in the United States. By using simple collusion to exploit the rule provision, the importer could increase his likelihood of avoiding punitive action from the Commission. Our amended import-for-export rule will continue to allow non-authorized devices to enter the U.S. solely for

export but does not allow the devices to be offered for sale in the U.S. The rule does make an exemption for cellular phones and similar telephone devices that operate on standards not used in the U.S. and, as a result, are unable to function in the U.S. These types of devices may continue to be imported and marketed for use outside of the U.S. This rule amendment makes it less problematic for importers, U.S. Customs officials and FCC officials, to determine when importation of a radio frequency device is illegal. It will also minimize any effect on vendors that legitimately import devices for export.

Our rule amendments also streamline the declaration process for importers unable to file the FCC Form 740 electronically. Due to the successful implementation of U.S. Customs' electronic filing system, the FCC will eliminate the requirement for importers to file a duplicate FCC Form 740 with the Commission when they are unable to file electronically. Although the majority of FCC Form 740 filings occur electronically via U.S. Customs' electronic filing system, importers must currently file a paper FCC Form 740 with U.S. Customs and with the FCC when they are unable to use the electronic system. FCC Form 740 information is available to the FCC via the U.S. Customs Service upon request. Thus, requiring the duplicative filing of the FCC Form 740 with the FCC puts an unnecessary burden on the importer. We will no longer require an importer to file the FCC Form 740 with the FCC when an importer is unable to use the electronic system provided by the U.S. Customs Service. Importers will continue to submit the FCC Form 740 to the U.S. Customs Service.

#### Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended, the *Second Report and Order* contains a final regulatory flexibility analysis. No comments were submitted in response to the Initial Regulatory Flexibility Analysis. The Commission does not anticipate any adverse economic impact on small business entities resulting from these rule amendments. This *Second Report and Order* will reduce the burden on small entities. This item eliminates the duplicative filing of the FCC Form 740 and, as a result, should reduce administrative overhead, such as processing and mailing costs for small businesses. Secondly, revisions to the rule to amend language in order to improve enforcement by prohibiting entry of devices that are not approved for use in the United States is essential. The Commission had originally

intended to delete the words “for use” from § 2.1204(a)(5). Instead, after comment on this proposed revision, the Commission deleted the words “for use” but added a qualifier to allow for the importation of foreign standard cellular handsets that are incapable of operating in the United States. It is believed that this amendment of the rule both closes the “loophole” and allows businesses to conduct business such as the importing and selling of cellular handsets to the United States.

#### Legal Basis

Pursuant to the authority contained in sections 4(i), 4(j), 7(a), 302, 303(b), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 157(a), 302a, 303(b), 303(f), 303(g), 303(r), part 2, subpart K, §§ 2.1204(a)(5), 2.1205(a), 47 CFR 2.1204(a)(5) and 2.1205(a) are amended.

#### List of Subjects in 47 CFR Part 2

Imports.

Federal Communications Commission.  
**Magalie Roman Salas,**  
*Secretary.*

#### Rule Changes

Part 2 of Title 47 of the Code of Federal Regulations is amended as follows:

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

1. The authority citation for Part 2 is amended to read as follows:

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

2. Section 2.1204 is revised by amending paragraph (a)(5) to read as follows:

#### § 2.1204 Import conditions.

(a) \* \* \*

(5) The radio frequency device is being imported solely for export. The device will not be marketed or offered for sale in the U.S., except:

(i) If the device is a foreign standard cellular phone solely capable of functioning outside the U.S.

(ii) If the device is a multi-mode wireless handset that has been certified under the Commission's rules and a component (or components) of the handset is a foreign standard cellular phone solely capable of functioning outside the U.S.

\* \* \* \* \*

3. Section 2.1205 is revised by removing the note and revising paragraph (a) to read as follows:

#### § 2.1205 Filing of required declaration.

(a) For points of entry where electronic filing with Customs has not been implemented, use FCC Form 740 to provide the needed information and declarations. Attach a copy of the completed FCC Form 740 to the Customs entry papers.

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### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[I.D. 121399A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Bycatch Rate Standards for the First Half of 2000

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

**ACTION:** Pacific halibut and red king crab bycatch rate standards; request for comments.

**SUMMARY:** NMFS announces Pacific halibut and red king crab bycatch rate standards for the first half of 2000. Publication of these bycatch rate standards is necessary under regulations implementing the vessel incentive program. This action is necessary to implement the bycatch rate standards for trawl vessel operators who participate in the Alaska groundfish trawl fisheries. The intent of this action is to reduce prohibited species bycatch rates and promote conservation of groundfish and other fishery resources.

**DATES:** Effective 1201 hours, Alaska local time (A.l.t.), January 20, 2000, through 2400 hours, A.l.t., June 30, 2000. Comments on this action must be received at the following address no later than 4:30 p.m., A.l.t., January 26, 2000.

**ADDRESSES:** Comments may be submitted to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Comments also may be sent via facsimile (fax) to 907-586-7465. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, Juneau, AK 99801.

#### FOR FURTHER INFORMATION CONTACT:

Mary Furuness, 907-586-7228, fax 907-586-7465, e-mail mary.furuness@noaa.gov.

**SUPPLEMENTARY INFORMATION:** NMFS manages the domestic groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA) according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the groundfish fisheries appear at 50 CFR part 679.

Regulations at § 679.21(f) implement a vessel incentive program to reduce halibut and red king crab bycatch rates in the groundfish trawl fisheries. Under the incentive program, operators of trawl vessels may not exceed Pacific halibut bycatch rate standards specified for the BSAI and GOA midwater pollock and “other trawl” fisheries, and the BSAI yellowfin sole and “bottom pollock” fisheries. Vessel operators also may not exceed red king crab bycatch rate standards specified for the BSAI yellowfin sole and “other trawl” fisheries in Bycatch Limitation Zone 1 (defined in § 679.2). The fisheries included under the incentive program are defined in regulations at § 679.21(f)(2).

Regulations at § 679.21(f)(3) require that halibut and red king crab bycatch rate standards for each fishery included under the incentive program be published in the **Federal Register**. The standards are in effect for specified seasons within the 6-month periods of January 1 through June 30, and July 1 through December 31. Because the Alaskan groundfish fisheries are closed to trawling from January 1 to January 20 of each year (§ 679.23(c)), the Administrator, Alaska Region, NMFS (Regional Administrator) is promulgating bycatch rate standards for the first half of 2000 effective from January 20, 2000, through June 30, 2000.

As required by § 679.21(f)(4), bycatch rate standards are based on the following information:

(1) Previous years' average observed bycatch rates;

(2) Immediately preceding season's average observed bycatch rates;

(3) The bycatch allowances and associated fishery closures specified under §§ 679.20 and 675.21;