

Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare Counties.

**Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements

under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today’s **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 12, 2003.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

■ Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 81—[AMENDED]**

■ 1. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. In § 81.305, the “California PM–10 table” is amended as follows:

■ a. By revising the entry for “San Bernardino County”; and

■ b. By revising the entry for “Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare Counties.”

**§ 81.305 California.**

\* \* \* \* \*

**CALIFORNIA–PM–10**

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * *	* * *	* * *	* * *	* * *
San Bernardino County:				
San Bernardino (part): Excluding that portion located in the Trona planning area and excluding that portion located in the South Coast Air Basin.	1/20/1994	Nonattainment .....	1/20/1994	Moderate.
Trona planning area: That portion of San Bernardino County contained within Hydrologic Unit #18090285.	9/5/2002	Nonattainment .....	9/5/2002	Moderate.
* * *	* * *	* * *	* * *	* * *
Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare Counties:				
Indian Wells Valley planning area: That portion of Kern County contained within Hydrologic Unit #18090205.	6/6/2003	Attainment.		
* * *	* * *	* * *	* * *	* * *

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

[FR Doc. 03–15761 Filed 6–20–03; 8:45 am]  
BILLING CODE 6560–50-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Part 1**

**USCG 2003–15137**

**RIN 1625–AA71**

**Right To Appeal; Director, Great Lakes Pilotage**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Direct final rule.

**SUMMARY:** The Coast Guard is amending its procedures for the appeal of

decisions or actions taken by the Director, Great Lakes Pilotage (G–MW–1). It has determined that the Assistant Commandant for Marine Safety, Security and Environmental Protection (G–M) should exercise this authority in place of the Director of Waterways Management (G–MW). This way, G–MW will be able to supervise more closely the work of G–MW–1 without also sitting in judgment on that work.

**DATES:** This rule is effective August 22, 2003, unless an adverse comment, or notice of intent to submit an adverse comment, reaches the Docket Management Facility on or before July 23, 2003. If an adverse comment, or notice of intent to submit an adverse comment reaches the Facility within the time allowed, we will withdraw this direct final rule and publish a timely

notice of withdrawal in the **Federal Register**.

**ADDRESSES:** To make sure that your comments and related material do not enter the docket [USCG 2003–15137] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Facility maintains the public docket for this rulemaking. Comments and related material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Mr. Tom Lawler, Coast Guard, telephone 202-267-1241. If you have questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [USCG 2003-15137], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

**Regulatory Information**

We are publishing a direct final rule under 33 CFR 1.05-55, because we do not expect an adverse comment. Unless we receive an adverse comment or notice of intent to submit one within the comment period specified under **DATES**, this rule will become effective as stated in **DATES**. In that case, about 15 days before the effective date, we will publish a document in the **Federal Register** stating that we received no adverse comment and confirming that this rule will become effective as scheduled. However, if we receive an adverse comment or notice of intent to

submit one, we will publish a document in the **Federal Register** announcing the withdrawal of this rule. If we decide to proceed with a rulemaking following receipt of an adverse comment, we will publish a separate notice of proposed rulemaking (NPRM) and provide a new opportunity for comment.

A comment counts as “adverse” if it explains why this rule would be inappropriate, including a challenge to its underlying premise or approach, or would be ineffective or unacceptable without a change.

**Background and Purpose**

A review of our rules indicates that our policy and practice of permitting a party to appeal any decision or action of the Director, Great Lakes Pilotage (G-MW-1), in accordance with the procedures at 46 CFR Part 1.03, should be changed from the Director, Waterways Management (G-MW) to the Assistant Commandant for Marine Safety, Security and Environmental Protection (G-M). This way, G-MW will be able to more closely supervise the work of G-MW-1 without also sitting in judgment on that work.

**Discussion of Rule**

To codify this rule entails (1) amending 46 CFR 1.03-15 to take account of 46 U.S.C. Chapter 93 and 46 CFR Chapter III and identifying the particular Coast Guard office for appeals; and (2) amending 46 CFR 1.03-50 to describe the appellate process for decisions or actions of the Director, Great Lakes Pilotage (G-MW-1).

This change shifts the authority to review any decision or action of the Director, Great Lakes Pilotage (G-MW-1), from the Director of Waterways Management (G-MW) to the Assistant Commandant for Marine Safety, Security and Environmental Protection (G-M).

**Regulatory Evaluation**

This direct 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. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS) [44 FR 11040 (February 26, 1979)]. Because this rule is administrative in nature, we expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the

regulatory policies and procedures of DHS is unnecessary.

**Small Entities**

Under the Regulatory Flexibility Act [5 U.S.C. 601-612], we considered whether this direct final rule will have a significant economic impact on a substantial number of small entities. The term “small entities” comprises 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 does not affect any small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. We will evaluate, under the criteria in “Regulatory Information”, any comments submitted in response to this finding.

**Collection of Information**

This direct final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501-3520].

**Federalism**

We have analyzed this direct final rule under Executive Order 13132 and have determined that it does not have implications for federalism under that Order.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 [2 U.S.C. 1531-1538] requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this direct final rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

**Taking of Private Property**

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

**Reform of Civil Justice**

This direct final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation,

eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this direct final rule under Executive Order 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 health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This direct final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

The Coast Guard considered the environmental impact of this direct final rule and concluded that, under figure 2-1, paragraph (34)(a) of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. It is "procedural" within the meaning of that paragraph. A Determination of Categorical Exclusion is available in the docket where indicated under ADDRESSES.

### List of Subjects in 46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 1 as follows:

## PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

### Subpart 1.03—Rights of Appeal

■ 1. Add the authority citation to subpart 1.03 to read as follows:

**Authority:** 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Public Law 107-296, 116 Stat. 2135; Department of Homeland Security Delegation No. 1070; § 1.01-35 also issued under the authority of 44 U.S.C. 3507.

■ 2. Revise paragraph (h)(5) of § 1.03-15 to read as follows:

#### § 1.03-15 General.

\* \* \* \* \*

(h) \* \* \*

(5) Commandant (G-M) for appeals involving decisions or actions of the Director, Great Lakes Pilotage.

\* \* \* \* \*

■ 3. Revise § 1.03-50 to read as follows:

#### § 1.03-50 Appeals from decisions or actions of the Director, Great Lakes Pilotage.

Any person directly affected by a decision or action of the Director, Great Lakes Pilotage, may make a formal appeal of that decision or action to Commandant (G-M), in accordance with the procedures contained in § 1.03-15 of this subpart.

Dated: May 21, 2003.

**Paul J. Pluta,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.*

[FR Doc. 03-15641 Filed 6-20-03; 8:45 am]

**BILLING CODE 4910-15-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

[ET Docket No. 99-231; FCC 03-124]

### Spread Spectrum Devices

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for rulemaking; denial.

**SUMMARY:** This document denies the Petition for Reconsideration filed by Warren C. Havens and Telesaurus Holdings GB, LLC, d/b/a LMS Wireless ("Havens") of the Commission's *Second Report and Order* in this proceeding. We affirm our decision to permit new digital transmission technologies to operate in the 902-928 MHz (915 MHz) band under the same rules that govern the operation of direct sequence spread spectrum systems, and reject Havens'

request that we delay the implementation of these rules.

**FOR FURTHER INFORMATION CONTACT:** Neal McNeil, Office of Engineering and Technology, (202) 418-2408.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order*, ET Docket No. 99-231, FCC 03-124, adopted May 27, 2003 and released May 30, 2003. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Qualex International, Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 863-2893; fax (202) 863-2898; e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

### Summary of the Memorandum Opinion and Order

1. In the *Second Report and Order* in ET Docket No. 99-231, the Commission revised § 15.247 of its rules to allow new digital transmission technologies to operate under the same rules as direct sequence spread spectrum systems in the 915 MHz, 2.4 GHz, and 5.7 GHz bands. The Commission stated that these changes will facilitate the continued development and deployment of new wireless devices for businesses and consumers. The modified rules will allow more diverse products to occupy those bands, thereby increasing consumer choice. At the same time, the rules will provide flexibility for quickly introducing new non-interfering products without the need for rule makings to address each developing technology. The new rules became effective on July 25, 2002.

2. On July 25, 2002, Havens filed a petition for reconsideration asking the Commission to defer the rule changes noted above in the 915 MHz band, pending resolution of two rulemaking petitions: One filed by Progeny LMS LLC ("the Progeny petition"), and one that Havens intended to file at a later date. The Progeny petition seeks rule changes for the Location and Monitoring Service ("LMS") in the 915 MHz band. Specifically, Progeny seeks elimination of restrictions barring a single licensee from holding all LMS licenses in a given area, elimination of the restriction on real-time interconnection, elimination of the restriction on the types of services LMS licensees may offer, and the substitution of technical limits, as