

necessary, for the current service limitations. Progeny also requests modification of the safe harbor provision of § 90.361 of the rules that creates a presumption of non-interference from part 15 and Amateur operations in the 902–928 MHz band. Havens asserts that the changes to the part 15 rules adopted in the *Second Report and Order* that allow increased flexibility for unlicensed devices may lead to increased part 15 use, which would jeopardize effective use of LMS in this spectrum.

3. We note that Havens has not shown sufficient cause for delaying the implementation date of the rules adopted in the *Second Report and Order*. The changes to the part 15 rules that allow increased flexibility for manufacturers to improve product performance did not change the technical requirements, *i.e.*, maximum peak power and power spectral density, that we find adequate to protect other spectrum users from interference. An LMS receiver will experience no more interference from a part 15 device operating under the rules adopted in the *Second Report and Order* than under the prior rules. Havens has made no showing that contradicts this conclusion, and a mere statement of belief that increased use may lead to increased interference is not sufficient justification for reconsideration. In the event that the Commission proposes to revise its rules in response to the Progeny petition, interested parties can address part 15 and LMS issues in the context of that rulemaking proceeding.

4. Finally, we decline to delay implementation of rule changes on the mere speculation that a Petition for Rulemaking may be filed that may affect use of the band. We note that the rule changes adopted in the *Second Report and Order* became effective on July 25, 2002. Havens did not raise any objections to the proposals during the pendency of this proceeding and has not filed a Petition for Rulemaking concerning the 915 MHz band. We find that Havens has not presented sufficient justifications to warrant reconsideration of the rules adopted in the *Second Report and Order* in this proceeding.

Ordering Clauses

5. Pursuant to sections 4(i), 302, 303(e), 303(f), 303(g), 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), 303(g), 303(r), and 405, it is ordered that the Petition for Reconsideration filed by Warren C. Havens and Telesaurus GB, LLC is denied.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021122286–3036–02; I.D. 061803B]

Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the second seasonal apportionment of the 2003 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 19, 2003, through 1200 hrs, A.l.t., June 29, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific halibut bycatch allowance for the GOA trawl shallow-water species fishery, which is defined at § 679.21(d)(3)(iii)(A), as established by the final 2003 harvest specifications for groundfish of the GOA (68 FR 9924, March 3, 2003) for the second season, the period April 1, 2003, through 1200 hrs, A.l.t., June 29, 2003, is 100 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 2003 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been reached.

Consequently, NMFS is prohibiting directed fishing for the shallow-water species fishery by vessels using trawl gear in the GOA, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the shallow-water species fishery are: pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and “other species.”

Maximum retainable amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the second seasonal apportionment of the 2003 Pacific halibut bycatch allowance, and therefore reduce the public’s ability to use and enjoy the fishery resource.

The AA for Fisheries, NOAA, also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 18, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–15797 Filed 6–18–03; 4:35 pm]

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