

action is not a major rule as defined by 5 U.S.C. 804(2).

*K. Unfunded Mandates Reform Act of 1995:* This rule making does not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. See 2 U.S.C. 1501 *et seq.*

*L. National Environmental Policy Act:* This rule making will not have any effect on the quality of environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. See 42 U.S.C. 4321 *et seq.*

*M. National Technology Transfer and Advancement Act:* The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rule making does not contain provisions which involve the use of technical standards.

*N. Paperwork Reduction Act:* This rule making involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and approved by OMB under OMB control number 0651-0032. The USPTO is not resubmitting an information collection package to OMB for its review and approval because the changes in this rule making do not affect the information collection requirements associated with the information collection under OMB control number 0651-0032.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

#### List of Subjects in 37 CFR Part 41

Administrative practice and procedure, Inventions and patents, Lawyers.

■ For the reasons stated in the preamble, the Patent and Trademark Office amends 37 CFR part 41 as follows:

### PART 41—PRACTICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

■ 1. The authority citation for 37 CFR part 41 continues to read as follows:

**Authority:** 35 U.S.C. 2(b)(2), 3(a)(2)(A), 21, 23, 32, 41, 134, 135.

#### Subpart E—Patent Interferences

##### § 41.200 [Amended]

■ 2. In § 41.200, paragraph (b) is removed and reserved.

Dated: April 10, 2010.

**David J. Kappos,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2010-8626 Filed 4-14-10; 8:45 am]

**BILLING CODE 3510-16-P**

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 11

[EB Docket No. 04-296; DA 10-500]

#### Public Safety and Homeland Security Bureau Seeks Informal Comment Regarding Revisions to the Federal Communication Commission's Rules Governing the Emergency Alert System Pending Adoption of the Common Alerting Protocol by the Federal Emergency Management Agency

**AGENCY:** Federal Communications Commission.

**ACTION:** Request for comments.

**SUMMARY:** In this document, the Federal Communication Commission's (Commission) Public Safety and Homeland Security Bureau (PSHSB) seeks informal comment regarding what, if any, changes to the Commission's rules governing the Emergency Alert System (EAS) might be necessitated by the introduction of the Common Alerting Protocol (CAP), as well as the Federal Emergency Management Agency's (FEMA) deployment of its Integrated Public Alert and Warning System (IPAWS).

**DATES:** Comments are due on or before May 17, 2010 and reply comments are due on or before June 14, 2010.

**ADDRESSES:** You may submit comments, identified by EB Docket No. 04-296 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

*Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• *People With Disabilities:* Contact the Commission to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

**FOR FURTHER INFORMATION CONTACT:** Gregory M. Cooke, Associate Chief, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-2351, or by e-mail at [gregory.cooke@fcc.gov](mailto:gregory.cooke@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communication Commission's Public Notice in EB Docket No. 04-296, DA 10-500, released on March 25, 2010. This document is available to the public at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-10-500A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-500A1.doc).

#### Synopsis of the Public Notice

1. CAP is an open, interoperable, data interchange format for collecting and distributing all-hazard safety notifications and emergency warnings to multiple information networks, public safety alerting systems, and personal communications devices. In conjunction with appropriate alert transmission architectures, CAP will allow FEMA, the National Weather Service (NWS), a State Governor, or any other authorized initiator of a public alert and warning to

automatically format and geo-target a particular alert simultaneously to the public over multiple media platforms such as television radio, cable, cell phones and electronic highway signs. CAP will also allow an alert initiator to send alerts specifically formatted for people with disabilities and for non-English speakers.

2. The Commission, in its *Emergency Alert System (EAS) Second Report and Order and Further Notice of Proposed Rulemaking (Second Report and Order)*, FCC No. 07–109 (adopted May 31, 2007; released July 12, 2007) mandated that all EAS Participants must accept CAP-based EAS alerts 180 days after the date on which FEMA publishes the applicable technical standards for its adoption of CAP as the basis for FEMA-generated alerts. On July 30, 2008, FEMA announced its intention to adopt a version of CAP, and more recently announced that this adoption may occur as early as the third quarter of 2010. Such action would trigger the Commission's 180 day requirement.

3. The Commission's EAS rules, 47 CFR part 11, were not written to accommodate a CAP-based EAS and will likely require significant revision or replacement once CAP is adopted and implemented, even if CAP-formatted messages continue to be utilized in connection with the alert transmission architectures of the current or "legacy" EAS. In advance of any rulemaking that may need to be conducted by the Commission once FEMA announces its adoption of standards for CAP, PSHSB seeks informal comment regarding what, if any, part 11 changes might be necessitated by the introduction of CAP. PSHSB asks commenters to identify, with specificity, those rules that need to be modified or deleted, and to suggest new rules for Part 11—or a new rules framework to replace part 11 rules. Accordingly, commenters should feel free to address the entirety of part 11 rules in this regard. For example, commenters may address rules for a CAP-based EAS system architecture, equipment requirements, organization, operations, testing, and access for people with disabilities and non-English speakers. PSHSB also asks commenters to consider the degree to which the Commission can implement flexibility into any new rules adopted for part 11, such that future versions of CAP can be accommodated without further rule changes.

4. Further, FEMA's adoption of CAP anticipates FEMA's deployment of IPAWS, which will combine new and innovative technologies and distribution systems with greater redundancy and resiliency for the delivery of emergency

alerts. In its *EAS Second Report and Order*, the Commission requires EAS Participants to configure their networks to receive CAP-formatted alerts delivered via any new delivery systems, whether wireline, internet, satellite, or other, within 180 days after the date that FEMA announces the technical standards for the Next Generation EAS. However, the Commission's rules presently also do not address such alert distribution methods.

5. Accordingly, PSHSB also takes this opportunity to ask commenters to identify specific rule changes or additions that they foresee could advance or facilitate introduction of a CAP-based Next Generation EAS architecture. In this regard, PSHSB seeks comment on the extent to which states already are adopting CAP-based systems for distribution of state and local EAS alerts, and the extent to which any revisions to Part 11 can be adopted in manner consistent with those systems. Again, PSHSB urges commenters to consider the degree to which the Commission can and should implement flexibility into its new rules, in order to accommodate future changes to EAS delivery systems without necessitating repeated revisions to Part 11. What factors should the Commission weigh in determining whether and/or when to implement future rule changes? Should the structure and content of state EAS Plans covered by § 11.21 of the EAS rules be altered to accommodate CAP and, if so, how?

6. Finally, PSHSB seeks comment on what rules changes, if any, are necessary to our Part 11 rules to ensure access to a CAP-based EAS by people with disabilities and those who do not speak English. We seek comment on how states that have adopted CAP currently address this issue. We also seek comment on the status of any initiatives or programs developed by, as well as any ongoing discussions among, interested stakeholders to address these issues.

#### Procedural Matters

##### A. *Ex Parte* Presentations

7. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining

to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

##### B. *Comment Filing Procedures*

8. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings related to this Notice of Proposed Rulemaking should refer to EB Docket No. 04–296. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

9. *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

10. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

11. *Paper Filers*: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

12. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

13. Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC

Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. **Please Note:** The Commission's former filing location at 236 Massachusetts Avenue, NE., is permanently closed.

Federal Communications Commission.

**David L. Furth,**

*Deputy Bureau Chief, Public Safety and Homeland Security Bureau.*

[FR Doc. 2010-8636 Filed 4-14-10; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0910131363-0087-02]

RIN 0648-XV79

#### Fisheries of the Economic Exclusive Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands

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

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully use the 2010 total allowable catch (TAC) of Pacific cod specified for the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 30, 2010, through 2400 hrs, A.l.t., December 31, 2010. Comments must be received at the following address no later than 4:30 p.m., A.l.t., April 29, 2010.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-XV79, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Mail: P.O. Box 21668, Juneau, AK 99802.

- Fax: (907) 586-7557.
  - Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.
- All comments received are a part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comment will generally be posted without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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.

NMFS closed directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the BSAI under § 679.20(d)(1)(iii) on March 25, 2010 (75 FR 15626, March 26, 2010).

NMFS has determined that as of April 9, 2010, approximately 400 metric tons of Pacific cod remain in the 2010 Pacific cod apportionment for catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2010 TAC of Pacific cod in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the BSAI.

#### 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 impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the Pacific cod fishery by Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 9, 2010.

The AA 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.

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until April 29, 2010.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: April 12, 2010.

**Emily H. Menashes,**

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

[FR Doc. 2010-8639 Filed 4-14-10; 8:45 am]

**BILLING CODE 3510-22-S**