

1. This *Fourth Report and Order* is one of two orders in which the Commission will take additional steps to integrate CAP into its part 11 rules governing the EAS. In this *Fourth Report and Order*, the Commission amends § 11.56 of its EAS rules to require EAS Participants to be able to receive CAP-formatted EAS alerts as required by part 11 no later than June 30, 2012. The Commission anticipates that it will adopt the CAP-based revisions to its part 11 EAS rules in a subsequent order stemming from its *Third Further Notice of Proposed Rulemaking (Third FNPRM)*, 76 FR 35810–01, June 20, 2011, in this docket sufficiently in advance of June 30, 2012, to allow EAS Participants ample time to comply with the new part 11 rules. In this subsequent order, the Commission will also address the many remaining non-CAP related issues raised in its *Third FNPRM*. This amendment of § 11.56 of the Commission's rules moots the Petition for an Expedited Further Extension of the 180-Day "Cap" Compliance Deadline, EB Docket 04–296 (filed July 29, 2011) (Joint Petition) filed jointly by 46 state broadcasters associations, NAB, NCTA, the Society of Broadcast Engineers, ACA, the Association for Maximum Service Television, National Public Radio, the Association of Public Television Stations, and the Public Broadcasting Service for extension of the 180-day CAP compliance deadline.

2. In the *Third FNPRM*, the Commission noted that some equipment vendors may be marketing equipment—intermediary devices—that connects in some fashion with previously certified EAS equipment to allow that equipment to receive CAP-formatted alerts in the legacy EAS format. The Commission sought comment on a number of issues regarding these devices, including whether they must be certified under current EAS rules and whether they satisfy the Commission's 2007 CAP-related requirements. Although the Commission intends to address these issues in a subsequent order, it notes that, based on the record, it appears that some EAS Participants may have purchased such equipment. In this *Fourth Report and Order*, the Commission reminds EAS Participants that equipment that meets the definition of an encoder or a decoder under Commission rules must be certified under § 11.34 of the Commission's current rules. In addition, equipment used to receive CAP-formatted EAS alerts must, at a minimum, comply with the CAP requirements the Commission adopted in the *Second Report and Order*

in this docket. While the Commission does not decide today whether intermediary devices comply with these requirements, it is unclear whether any equipment that does not meet these current baseline requirements will be able to satisfy any CAP-related rules we may adopt in the future. Consequently, the Commission urges EAS Participants that have purchased or are considering purchase of any type of EAS equipment to verify with manufacturers and/or vendors that the equipment complies with current FCC rules.

### I. Procedural Matters

#### A. Paperwork Reduction Act Analysis

3. This document contains no modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

#### B. Congressional Review Act

4. The Commission will send a copy of this *Fourth Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act ("CRA"), see 5 U.S.C. 801(a)(1)(A).

### II. Final Regulatory Flexibility Analysis

5. The Regulatory Flexibility Act (RFA) requires that agencies prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." In this *Fourth Report and Order*, we have revised the rules to extend the date by which EAS Participants must be able to receive CAP-formatted EAS alert to June 30, 2012. We hereby certify that this rule revision will not have a significant economic impact on a substantial number of small entities, because the action merely maintains the status quo regarding CAP compliance. The Commission will send a copy of this *Fourth Report and Order*, including this certification, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the *Fourth Report and Order* (or a summary thereof) and certification will be published in the **Federal Register**.

### III. Ordering Clauses

6. Accordingly, *it is ordered* that, pursuant to sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 715 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and (o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 615, this *Fourth Report and Order is adopted*;

7. *It is further ordered* that part 11 of the Commission's rules, 47 CFR part 11, is amended. The Order shall become effective December 27, 2011;

8. *It is further ordered* that the Joint Petition for Further Extension of the CAP Compliance Deadline is dismissed as moot;

9. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Fourth Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

### List of Subjects in 47 CFR Part 11

Radio, Television.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 11 as follows:

### PART 11—EMERGENCY ALERT SYSTEM (EAS)

■ 1. The authority citation for part 11 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

■ 2. Revise § 11.56 to read as follows:

#### § 11.56 EAS Participants receive CAP-formatted alerts.

All EAS Participants must be able to receive CAP-formatted EAS alerts as required by this part no later than June 30, 2012.

[FR Doc. 2011–33154 Filed 12–23–11; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 219

[Docket No. FRA–2001–11213, Notice No. 15]

RIN 2130–AA81

#### Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2012

**AGENCY:** Federal Railroad Administration (FRA), DOT.

**ACTION:** Notice of determination.

According to data from FRA's Management Information System, the rail industry's random drug testing

positive rate has remained below 1.0 percent for the last two years. The Federal Railroad Administrator (Administrator) has therefore determined that the minimum annual random drug testing rate for the period January 1, 2012, through December 31, 2012, will remain at 25 percent of covered railroad employees. In addition, because the industry-wide random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that the minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2012, through December 31, 2012. Railroads remain free, as always, to conduct random testing at higher rates.

**DATES:** This notice of determination is effective December 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Mail Stop 25, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (telephone (202) 493-6313); or Kathy Schnakenberg, FRA Alcohol/Drug Program Specialist, (telephone (719) 633-8955).

Issued in Washington, DC, on December 20, 2011.

**Joseph C. Szabo,**  
Administrator.

[FR Doc. 2011-33046 Filed 12-23-11; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 111213751-1748-01]

RIN 0648-XA758

#### Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Proposed 2012 and 2013 Harvest Specifications for Groundfish

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes 2012 and 2013 harvest specifications, apportionments, and prohibited species catch (PSC) allowances for the groundfish fisheries of the Bering Sea

and Aleutian Islands (BSAI) management area. This action is necessary to establish harvest limits for groundfish during the 2012 and 2013 fishing years, and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

**DATES:** Comments must be received by January 26, 2012.

**ADDRESSES:** Send comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by FDMS Docket Number NOAA-NMFS-2011-0230, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal at <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2011-0230 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on the right of that line.

- **Mail:** Submit written comments to 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.

Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered.

All comments received are a part of the public record. Comments will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All Personal Identifying Information (for example, name, address) voluntarily submitted by the commenter will 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.

Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (EIS), the Initial Regulatory Flexibility Analysis (IRFA), and the Supplemental IRFA prepared for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>. Copies of the final 2010 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2010, are available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252, phone (907) 271-2809, or from the Council's Web site at <http://alaskafisheries.noaa.gov/npfmc>. The 2011 SAFE report for the BSAI became available from the same sources in November 2011.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, (907) 586-7269.

**SUPPLEMENTARY INFORMATION:** Federal regulations at 50 CFR part 679 implement the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) and govern the groundfish fisheries in the BSAI. The Council prepared the FMP and NMFS approved it under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)). This proposed rule specifies 2.0 million mt for both 2012 and 2013. Section 679.20(c)(1) further requires NMFS to publish proposed harvest specifications in the **Federal Register** and solicit public comments on proposed annual TACs and apportionments thereof, PSC allowances, prohibited species quota (PSQ) reserves established by § 679.21, seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC, American Fisheries Act allocations, Amendment 80 allocations, and Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii). The proposed harvest specifications set forth in Tables 1 through 12 of this action satisfy these requirements.

Under § 679.20(c)(3), NMFS will publish the final harvest specifications