

considered in determining whether to certify new ETCs for a service area other than a rural carrier's entire study area. We ask the Joint Board to consider whether the Commission should provide additional guidance regarding the manner in which the level of disaggregation of support should be considered, and if so, what guidance the Commission should provide.

7. Pursuant to sections 1, 4(i) and (j), 214(e), 254, and 410 of the Communications Act of 1934, as amended, this Order is adopted.

8. Pursuant to sections 1, 4(i) and (j), 214(e), 254, and 410 of the Communications Act of 1934, as amended, the Federal-State Joint Board on Universal Service is requested to review the Commission's rules relating to high-cost universal service support in study areas in which a competitive eligible telecommunications carrier is providing service and support for second lines and provide recommendations to the Commission.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 01-97; RM-9798; FCC 02-232]

Amendment of the Commission's Rules To Revise the Authorized Duty Cycle on 173.075 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission revised the duty cycle specifications for stolen vehicle recovery system operations on 173.075 MHz by adding a new duty cycle option of 1800 milliseconds every 300 seconds, with a maximum of six messages in any thirty-minute period. This action was taken to enable the enhancement of police performance in the recovery of stolen vehicles and apprehension of suspects. This rule change will facilitate: more efficient law enforcement, a decrease in the time between when a vehicle is discovered stolen and when the theft is reported to

the police, greater stolen vehicle recovery rates, and a greater rate of apprehension of criminals.

DATES: Effective December 26, 2002.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Esq., Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0627, TTY (202) 418-7233, or via e-mail at fthyden@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Report and Order*, FCC 02-232, adopted on August 9, 2002, and released on September 5, 2002. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365 or at bmillin@fcc.gov.

In this *Report and Order*, we address the proposal set forth in the *Notice of Proposed Rulemaking (NPRM)*, 66 FR 31598, June 12, 2001, in WT Docket No. 01-97. In the *NPRM*, the Commission sought comment on whether to revise the duty cycle specifications for stolen vehicle recovery system (SVRS) operations on 173.075 MHz. The *NPRM* also invited comment on whether the public interest continues to be served by specification of duty cycles for the SVRS operations on 173.075 MHz. For the reasons explained below, we are revising § 90.20(e)(6) of the Commission's rules to add a new duty cycle option of 1800 milliseconds every 300 seconds with a maximum of six messages in any thirty-minute period. We believe that this new duty cycle option will enable the enhancement of police performance in the recovery of stolen vehicles and apprehension of suspects, while ensuring that harmful interference does not occur to television reception. It is our view that the specification of SVRS duty cycles continues to serve the public interest by also encouraging a competitive marketplace for provision of SVRS operations.

I. Procedural Matters

A. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA) of 1980, the

Commission has prepared a Final Regulatory Flexibility Analysis of the possible impact of the rule changes contained in this *Report and Order* on small entities. The Final Regulatory Flexibility Act analysis is set forth in Appendix A of the *Report and Order*. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

B. Paperwork Reduction Analysis

2. This *Report and Order* does not contain any new or modified information collection. Therefore, it is not subject to the requirements for a paperwork reduction analysis, and the Commission has not performed one.

II. Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in Appendix A of the *Notice of Proposed Rulemaking (NPRM)* issued in this proceeding. The Commission sought written public comment on the proposals in the *NPRM*, including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this *Report and Order* in WT Docket No. 97-82 conforms to the RFA. I. Need for, and Objectives of, the *Report and Order*

3. In the *Report and Order*, we modify the duty cycle for mobile specifications for SVRS operations, contained in 47 CFR § 90.20(e)(6), to 1800 milliseconds every 300 seconds to permit use of new technology. This modification is in the public interest because it enhances the efficient use of spectrum and permits greater efficiency in use of police resources to track and recover stolen vehicles and apprehend more individuals involved in such activities.

A. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

4. No comments were filed in direct response to the IRFA.

B. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under

Section 3 of the Small Business Act. A small business concern is one that: (1) Is independently owned and operated, (2) is not dominant in its field of operation, and (3) satisfies any additional criteria established by the Small Business Administration. Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."

6. The rule change adopted in this *Report and Order* will provide marketing opportunities for radio manufacturers, some of which may be small businesses. Beyond this we are unable to quantify the potential effects on small entities.

C. Description of Reporting, Recordkeeping, and Other Compliance Requirements

7. No new reporting, recordkeeping, or other compliance requirements would be imposed on applicants or licensees as a result of the actions taken in this rulemaking proceeding.

D. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

8. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603.

9. As an alternative, the Commission considered eliminating specified duty cycles for SVRS mobile and base transmitters. However, the Commission determined that the public interest continues to be served by retention of these duty cycles. The mobile duty cycle ensures that harmful interference to TV Channel 7 reception will not occur, while the base station duty cycle permits the growth of a competitive SVRS marketplace. The rule change adopted will accommodate the use of an early warning detector and, thus, enhance police performance in the recovery of stolen vehicles and

apprehension of individuals suspected of committing these thefts.

10. Amendment of the duty cycle rule does not impose any new reporting or compliance requirements, however, it does permit an additional use of SVRS technology. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public.

E. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

11. None

Report to Congress: The Commission will send a copy of this *Report and Order*, including the FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this *Report and Order*, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**, *see* 5 U.S.C. 604(b).

III. Ordering Clauses

12. Authority for issuance of this *Report and Order* is contained in sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

13. Pursuant to the authority of sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), § 90.20(e)(6) of the Commission's Rules, 47 CFR 90.20(e)(6), *is amended* as set forth in the rule changes.

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

15. This proceeding *is terminated*.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rule Changes

For the reasons discussed in the preamble the Federal Communications Commission proposes to amend 47 CFR parts 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(g), 303(r), and 332(c)(7).

2. Section 90.20 is amended by revising paragraph (e)(6) introductory text to read as follows:

§ 90.20 Public safety pool.

* * * * *

(e) * * *

(6) The frequency 173.075 MHz is available for stolen vehicle recovery systems on a shared basis with the Federal Government. Stolen vehicle recovery systems are limited to recovering stolen vehicles and are not authorized for general purpose vehicle tracking or monitoring. Mobile transmitters operating on this frequency are limited to 2.5 watts power output and base transmitters are limited to 300 watts ERP. F1D and F2D emissions may be used within a maximum authorized 20 kHz bandwidth. Transmissions from mobiles shall be limited to 200 milliseconds every 10 seconds, except that when a vehicle is being tracked actively transmissions may be 200 milliseconds every second.

Alternatively, transmissions from mobiles shall be limited to 1800 milliseconds every 300 seconds with a maximum of six such messages in any 30 minute period. Transmissions from base stations shall be limited to a total time of one second every minute. Applications for base stations operating on this frequency shall require coordination with the Federal Government. Applicants shall perform an analysis for each base station located within 169 km (105 miles) of a TV Channel 7 transmitter of potential interference to TV Channel 7 viewers. Such stations will be authorized if the applicant has limited the interference contour to fewer than 100 residences or if the applicant:

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