

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
GARMIN INTERNATIONAL, INC.)
)
Request for Waiver of Family Radio Service Rule)
Sections 95.193(a) and 95.631(d) to Authorize)
Manufacture, Sale and Use of GPS Transmission)
Enhanced FRS Units)

ORDER ON RECONSIDERATION

Adopted: April 10, 2001

Released: April 12, 2001

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. On October 30, 2000, GARMIN International, Inc. (GARMIN) filed a Petition for Partial Reconsideration¹ of an Order released on September 29, 2000, by the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau (Division).² This Order granted GARMIN a one-year waiver of the rules in the Family Radio Service (FRS) that authorize two-way voice communications with another person using a FRS unit and that permit FRS units to transmit only emission type F3E and tones to establish or continue voice communications.³ The Division granted this waiver to allow GARMIN to manufacture and market handheld FRS transceivers capable of transmitting Global Positioning System (GPS) location information on FRS channels.⁴ On December 26, 2000 GARMIN filed a *Petition for Rulemaking* seeking to codify the terms of the waiver.⁵ GARMIN now seeks an extension of this waiver from one year to two years.⁶ For the reasons stated below, we grant GARMIN's request subject to the Commission's decision regarding the *Petition for Rulemaking* and any proceeding that the Commission commences thereunder.

¹ Petition for Partial Reconsideration, filed Oct 30, 2000, by GARMIN International, Inc. (Petition).

² GARMIN International, Inc., *Order*, 15 FCC Rcd 19143 (WTB 2000) (*GARMIN Order*).

³ See 47 C.F.R. §§ 95.193(a) and 95.631(d), respectively.

⁴ *GARMIN Order*, 15 FCC Rcd at 19147 ¶ 10.

⁵ Petition for Rulemaking, filed December 26, 2000, by GARMIN International, Inc. (*Petition for Rulemaking*). The Commission has assigned this rulemaking the designation RM No. 10070.

⁶ Petition at 1.

II. BACKGROUND

2. In 1996, the Commission established the FRS as a very short distance, two-way personal radio service.⁷ The *Report and Order* established the FRS primarily on the basis that it would fill a market niche in short distance, personal communications needs.⁸ It was envisioned that the FRS would provide an affordable and convenient means of direct, short-range two-way voice communications among small groups of persons, with minimal regulation.⁹ Because the FRS is intended to meet the needs of families and other small groups to communicate with each other while they are out of speaking distance or sight, but still within close range, and to prevent the FRS from being used as a substitute for other personal communications services, non-voice emission types, except tones transmitted to establish or continue voice communications, were not authorized.¹⁰

3. On June 22, 2000, GARMIN requested a waiver of Section 95.193(a) of the Commission's Rules,¹¹ which allows FRS units to be used solely to conduct two-way voice communications and certain described one-way voice communications.¹² GARMIN also requested a waiver of Section 95.631(d) of the Commission's Rules, which limits FRS units to using emission type F3E and selective calling or tone-operated squelch tones to establish or continue voice communications.¹³ GARMIN sought the waiver so that it could receive FCC certification of a FRS voice communication radio that would also permit users to transmit GPS location information using emission type F2D in a digital data burst of not more than one second.¹⁴ GARMIN stated that the proposed FRS radio would only transmit GPS location information if a user pressed a button on the unit and that it could limit transmission of GPS information to only once every 10 seconds in the event that a user were to repeatedly press the transmit button or switch.¹⁵

4. In the *GARMIN Order*, the Division concluded that grant of a waiver was warranted, but

⁷ See Amendment of Part 95 of the Commission's Rules to Establish a Very Short Distance Two-way Radio Service, *Report and Order*, WT Docket No. 95-102, 11 FCC Rcd 12977 (1996) (*Report and Order*).

⁸ *Id.*, 11 FCC Rcd at 12978 ¶ 2.

⁹ *Id.*

¹⁰ *Id.*, 11 FCC Rcd at 12984 ¶ 13; see also 47 C.F.R. §§ 95.193(a), 95.631(d).

¹¹ 47 C.F.R. § 95.193(a).

¹² See Letter, dated June 22, 2000, from GARMIN International, Inc. to Federal Communications Commission (June 2000 Waiver Request).

¹³ See 47 C.F.R. § 95.631(d). Emissions are designated by an alphanumeric code that indicates the type of modulation of the main carrier, nature of the signal(s) modulating the main carrier, and the type of information to be transmitted. See 47 C.F.R. § 2.201(b). F3E is a type of voice emission. See 47 C.F.R. § 2.201(e).

¹⁴ See June 2000 Waiver Request at 2. See also Letter, dated August 28, 2000, from GARMIN International, Inc. to D'wana Terry, Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission (August 2000 Letter). F2D is a type of data transmission. See 47 C.F.R. § 2.201(e).

¹⁵ See June 2000 Waiver Request at 1 and August 2000 Letter.

imposed certain technical specifications upon GARMIN intended to ensure that GARMIN's enhanced FRS radio did not depart from the basic nature of the FRS and limited the waiver to a one-year period.¹⁶ In its Petition, GARMIN requests that the Division extend the waiver period to a minimum of two years.¹⁷ GARMIN argues that the one-year period is insufficient for GARMIN to undertake the steps necessary to ensure that its enhanced FRS units reach the public and contends that these steps require twelve to sixteen months to implement.¹⁸ In the Petition, GARMIN notes that it intended to file a Petition for Rulemaking seeking to codify the provisions of the waiver,¹⁹ and argues that the Commission will not be in a position to finalize the rulemaking proceeding prior to the expiration of the one-year waiver period.²⁰ GARMIN argues that this situation would force GARMIN to request renewal of its waiver pending final action on the rulemaking proceeding, which might cause GARMIN to delay or cease its attempt to bring the enhanced FRS units to market after it has invested significant time and money into this endeavor.²¹

III. DISCUSSION

5. As we stated in the *GARMIN Order*, we believe that allowing FRS units to transmit location information derived from the GPS would further the Commission's stated goals underlying the creation of the FRS.²² We also believe that the public interest would be furthered by the public having access to equipment that can draw on these enhanced capabilities. We further recognize that bringing a new product to market requires manufacturers to undertake a time-consuming series of complex steps. Based on the information that GARMIN has provided us, we believe that GARMIN has established that extending the waiver period from one year to two years is in the public interest because GARMIN needs the additional year to have a meaningful opportunity to make this equipment available in the market. Accordingly, we will grant the Petition and extend the waiver period during the pendency of the rulemaking proceeding.²³ Any further extension of this waiver is conditioned upon the resolution of the *Petition for Rulemaking*.

¹⁶ *GARMIN Order*, 15 FCC Rcd 19146-47 ¶¶ 6-10.

¹⁷ Petition at 4 ¶ 6.

¹⁸ These steps are (1) conduct research; (2) finalize the design of the FRS units and tool custom electrical and mechanical items; (3) acquire necessary components; test the units and receive type certification; and (4) develop and implement a marketing plan. *Id.* at 3 ¶ 4.

¹⁹ *Id.* at 3, ¶ 5. As noted *supra*, GARMIN filed the *Petition for Rulemaking* on December 26, 2000, and the Commission has assigned this petition the designation RM No. 10070.

²⁰ Petition at 3-4, ¶ 5.

²¹ *Id.*

²² *GARMIN Order*, 15 FCC Rcd at 19146 ¶ 6.

²³ In extending the waiver period, we do not rely on GARMIN's argument that the one-year waiver is insufficient because the Commission will not be in a position to finalize the related rulemaking proceeding prior to the expiration of that period. In this regard, we note that the rulemaking proceeding was not initiated until after our decision on the waiver request.

IV. CONCLUSION AND ORDERING CLAUSES

6. We conclude that GARMIN has justified extending our original grant of a one-year waiver to allow GARMIN to efficiently manufacture and market FRS transceivers capable of transmitting GPS location information on FRS channels. We therefore extend the duration of this waiver to two years and such extension is subject to the Commission's resolution of the *Petition for Rulemaking*.

7. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, GARMIN International, Inc.'s request for partial reconsideration, filed October 30, 2000, IS GRANTED.

8. IT IS FURTHER ORDERED that pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), the waiver granted to GARMIN International, Inc. on September 29, 2000 IS EXTENDED to two years from the date of that Order, subject to the Commission's resolution of the *Petition for Rulemaking* to amend Sections 95.193(a), 95.193(b) and 95.631(d) of the Commission's Rules, RM-10070, under the same terms and conditions as the original waiver.

9. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau