



PUBLIC NOTICE

Federal Communications Commission
445 12th St., SW
Washington, D.C. 20554

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Fax-On-Demand 202 / 418-2830
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DA 06-962
Released: May 2, 2006

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY BRIARTEK INCORPORATED FOR TYPE CERTIFICATION OF DSC PERSONAL EMERGENCY POSITION INDICATING RADIO BEACON (EPIRB)

Comment Date: June 1, 2006

Reply Date: June 16, 2006

On March 16, 2005, Briar Tek Incorporated (Briar Tek) filed a request for waiver of Section 80.1055 of the Commission's Rules¹ to permit the type certification for a new Class B EPIRB.² Section 80.1055 of the Commission's Rules prohibits the manufacture or sale of Class B EPIRBs, or the certification of new Class B EPIRBs.

By way of background, EPIRBs are battery-powered transmitters generally used to send a distress signal when a ship is in danger. The distress signal is used both as an alarm to alert others that a ship is in distress and as a beacon to aid in its location by search and rescue personnel. In 2002, BriarTek was granted a waiver to permit certification of its ORCA Personal Locator Beacon (ORCA) as a Class B EPIRB, even though the unit did not meet the minimum operational performance standards for EPIRBs operating on 121.5/243 MHz.³ The waiver was granted because, unlike other EPIRBs, the ORCA is not intended primarily to activate rescue operations from satellites, overflying aircraft, or nearby ships, but instead to alert the home ship of a man overboard occurrence and then provide an accurate and rapid means to locate personnel once a search and rescue operation is underway.⁴ Subsequently, the Commission decided to phase out Class B EPIRBs, because COSPAS/SARSAT, the international program that operates the satellite processors for EPIRBs, announced that it would turn off its 121.5/243 MHz processors.⁵ The Commission stated, however, that the decision was not intended to preclude the continued manufacture and use of equipment certified in accordance with waivers such as was granted to BriarTek, because the use of such equipment did not pose the safety problems that led to the decision to phase out Class B EPIRBs generally.⁶

¹ 47 C.F.R. § 80.1055.

² Letter dated Mar. 16, 2005 from Joseph S. Landa, Corporate Officer, BriarTek Incorporated, to Michael Wilhelm, Chief, Public Safety and Critical Infrastructure Division, Federal Communications Commission (Waiver Request).

³ See Briar Tek Incorporated, *Order*, 17 FCC Rcd 2204 (WTB PSPWD 2002).

⁴ See *id.* at 2205 ¶ 6.

⁵ See Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications, *Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 00-48, 17 FCC Rcd 6741, 6761-62 ¶¶ 46-47 (2002).

⁶ See *id.* at 6761-62 n.124.

On December 10, 2004, Special Committee No. 119 (SC-119) of the Radio Technical Commission for Maritime Services adopted Recommended Standards for Maritime Survivor Locating Devices (MSLDs). The SC-119 Standards set forth various functional and technical requirements for MSLDs utilizing 156.525 MHz (VHF Channel 70) to transmit Digital Selective Calling (DSC) alerts, and MSLDs utilizing 121.5 MHz to transmit alerts. BriarTek's ORCA transmits only on 121.5 MHz, but BriarTek states that it has developed a new beacon (the ORCA DSC) compliant with the SC-119 standards, which uses Channel 70 for the alerting function. The ORCA DSC adds the DSC signal transmitting alerts on Channel 70 to the previously approved ORCA, which will continue to use the 121.5 MHz signal for homing.

Because the Commission's rules prohibit new Class B EPIRBs, the ORCA DSC cannot be certified for operation under Part 80 of the Commission's Rules without a rule waiver. BriarTek contends that such a waiver is appropriate because DSC alerts will provide additional information that will assist in directing the alert signal to the appropriate responders, which will increase the effectiveness of search and rescue operations.

Interested parties may file comments on the waiver request on or before June 1, 2006. Parties interested in submitting reply comments must do so on or before June 16, 2005. All comments should reference the subject waiver request including the DA number of this *Public Notice*, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D.C. 20554.⁷

The full text of the waiver request, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its web site, <http://www.bcpiweb.com>, by email at fcc@bcpiweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563. For further information regarding the public reference file for this waiver request, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a), 1.1206 of the Commission's Rules, 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this *Public Notice*, *ex parte* presentations that are made with respect to the issues involved in the

⁷ The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only by the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering 236 Massachusetts Avenue, N.E. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).

subject waiver request will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

For further information, contact Mr. Jim Shaffer of the Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau at (202) 418-0019, TTY (202) 418-7233, or via e-mail to James.Shaffer@fcc.gov.

By the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau.

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