

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

In the Matter of	)	
	)	
EDELWEISS, LLC	)	WT Docket No. 08-124
	)	
Request for Waiver of Part 80 Rules to Allow	)	
Certification and Use of Personal/Vessel Radar	)	
Beacon Transponders	)	

**ORDER**

**Adopted: March 9, 2009**

**Released: March 10, 2009**

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* On March 17, 2008, Edelweiss, LLC (Edelweiss) filed a request for waiver of Section 80.1101 of the Commission's Rules<sup>1</sup> to permit equipment certification and use of its "Personal Radar Beacon" and "Vessel Radar Beacon" (PRB/VRB).<sup>2</sup> For reasons set forth below, we grant Edelweiss's request for waiver, as conditioned herein.

2. *Background.* While the PRB/VRB is similar in function to a Global Maritime Distress and Safety System (GMDSS) Search and Rescue Transponder (SART), it is not a SART. Like a GMDSS SART, however, the PRB/VRB's purpose is to help locate persons and vessels by acting as an "active reflector" of 9.2-9.5 GHz (9 GHz) band radar signals. Unlike a GMDSS SART, however, the PRB/VRB is intended to assist in quickly locating individuals (the device can be carried or worn by a passenger) and small boats (the device can be mounted on a vessel) in coastal and offshore waters,<sup>3</sup> rather than lifeboats on the high seas.<sup>4</sup> Edelweiss states that the PRB/VRB would bring the benefits of radar beacon transponder technology to small boats and pleasure craft by offering a smaller, more economical alternative to existing transponders.<sup>5</sup>

3. The performance standards for 9 GHz radar transponders pursuant to the GMDSS requirements are incorporated into Section 80.1101(c)(6) of the Commission Rules.<sup>6</sup> In light of the fact that the PRB/VRB is not intended to act as a SART, it does not meet all of the GMDSS SART technical requirements in Section 80.1101. Specifically, the PRB/VRB's battery life is eight hours (compared to ninety-six hours for a GMDSS SART), its power output is 160 milliwatts (compared to 400 milliwatts), its antenna beamwidth is  $\pm 3$  dB (compared to  $\pm 2$  dB), and its range is no more than two nautical miles (compared to five nautical miles).<sup>7</sup> Consequently, Edelweiss requests a waiver of Section 80.1101 to

<sup>1</sup> 47 C.F.R. § 80.1011.

<sup>2</sup> Request for Waiver (filed Mar 17, 2008) (Waiver Request).

<sup>3</sup> See Waiver Request at 3.

<sup>4</sup> All cargo vessels over three hundred gross tons must carry survival craft equipment consisting of two handheld VHF radios and a 9 GHz SART; for cargo vessels over five hundred gross tons and passenger vessels, the requirement increases to three handheld VHF radios and two SARTs. See 47 C.F.R. § 80.1095(b).

<sup>5</sup> See Waiver Request at 3.

<sup>6</sup> See 47 C.F.R. § 80.1101(c)(6).

<sup>7</sup> See Waiver Request at 2.

permit certification and use of the PRB/VRB. Edelweiss proposes to warn users on the PRB/VRB itself, on the retail packaging, and in the user manual, that the device is not a substitute for GMDSS-approved equipment, and does not offer the same coverage.<sup>8</sup>

4. On July 2, 2008, we sought comment on Edelweiss's waiver request.<sup>9</sup> We received one comment, which supports Edelweiss's request.<sup>10</sup>

5. *Discussion.* Section 1.925(b)(3) of the Commission's Rules provides that we may grant a waiver if it is shown that (a) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and grant of the requested waiver would be in the public interest; or (b) in light of unique or unusual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>11</sup> We find that the waiver requested by Edelweiss is warranted under the circumstances presented. Specifically, we conclude that the underlying purpose of the subject rules would not be served by application to the instant case and grant of the requested waiver would be in the public interest.

6. Specifically, we conclude that a waiver of Section 80.1101 of the Commission's Rules would further the underlying purpose of the Commission's SART rules. SARTs are stations in the maritime mobile service that are intended to assist nearby ships in locating and rescuing survival craft or vessels in distress. Each time a SART detects a pulse from the 9 GHz radar of a searching vessel that is within approximately five nautical miles, the SART transmits a signal that is displayed on the screen of the radar that activated it. To ensure that such signals are received, the performance standards incorporated in the Commission's rules require that SARTs operate with a certain transmitter output power and bandwidth. Further, in light of the fact that it may be hours or days before help arrives on the high seas, those standards require a long-lasting power supply.

7. In contrast, the PRB/VRB is intended for use in coastal and offshore waters where persons or vessels can be reached in minutes rather than hours, rather than to facilitate rescue operations for life rafts farther out to sea. The PRB/VRB can be mounted on a small vessel (even a non-motorized vessel), and is small and light enough to be clipped to a life jacket.<sup>12</sup> In this latter regard, as Edelweiss notes,<sup>13</sup> the PRB/VRB resembles other devices for which waivers of the Part 80 technical rules were granted because the devices were intended for use only in man overboard situations, and therefore did not need to meet the requirements for equipment designed for other situations.<sup>14</sup> We believe that the same

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<sup>8</sup> See *id.* at 3 n.3; Electronic mail dated Nov. 17, 2008 from Ken Keane, counsel for Edelweiss, to Scot Stone and James Shaffer, FCC.

<sup>9</sup> See Wireless Telecommunications Bureau Seeks Comment on Request for Waiver by Edelweiss, LLC of Part 80 Rules to Allow Certification of Personal/Vessel Radar Beacon Transponders, *Public Notice*, 23 FCC Rcd 10371 (WTB MD 2008).

<sup>10</sup> See Letter dated July 11, 2008 from Allan Sheridan.

<sup>11</sup> 47 C.F.R. § 1.925(b)(3); see also *WAIT Radio v FCC*, 418 F. 2d 1153, 1159 (D.C. Cir. 1969).

<sup>12</sup> Waiver Request at 1.

<sup>13</sup> See *id.* at 3-4.

<sup>14</sup> See *McMurdo Limited, Order*, 17 FCC Rcd 7999 (WTB PSPWD 2002) (granting waiver of Section 80.1055 of the Commission's Rules, 47 C.F.R. § 80.1055, to permit certification and use of device not meeting the power and battery requirements for a Class B Emergency Position Indicating Radio Beacon (EPIRB) because the device was intended to quickly locate personnel swept overboard with a receiver on the vessel, rather than to allow satellites, overflying aircraft, and other ships to locate vessels in distress); *Briar Tek Incorporated, Order*, 17 FCC Rcd 2204 (WTB PSPWD 2002) (same); *David Marshall, Letter*, 13 FCC Rcd 23688 (WTB PSPWD 1998) (same); see also Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications, *Report and*

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factors that warranted grant of those waivers are present in the instant matter. Thus, we conclude that it is not necessary to require the PRB/VRB to meet all the technical standards applicable to a GMDSS SART. Indeed, requiring such compliance could render the device unsuitable for its intended purpose by making it too large and heavy to clip to a life jacket.<sup>15</sup>

8. In addition, in order to reduce the chance that users will erroneously rely on a PRB/VRB in circumstances for which it is not designed (*e.g.*, in open water far from shore), we agree with Edelweiss that they should be clearly warned that the device is not a substitute for GMDSS-approved equipment, and does not offer the same coverage. Therefore, we impose the condition on the instant waiver that Edelweiss include on the product and in the retail package labeling, and in the user manual, conspicuous language that a) warns users that a PRB/VRB is only a secondary signaling device; b) states that the PRB/VRB is not GMDSS-approved or a substitute for any GMDSS-approved equipment; c) informs users of the expected performance of the device such as the probable ranges under differing conditions; and d) informs users that the PRB/VRB should not be relied upon as a primary life-saving device, and does not function as an emergency beacon (*i.e.*, emergency position-indicating radiobeacon (EPIRB), emergency locator transmitter (ELT), or personal locator beacon (PLB)), and does not communicate with any satellite.<sup>16</sup>

9. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, that the Request for Waiver of Section 80.1101 of the Commission's Rules, 47 C.F.R. § 80.1101, filed by Edelweiss, LLC on March 17, 2008, IS GRANTED ON THE CONDITION that the product, the retail package labeling, and the user manual all, in a conspicuous manner, a) warn users that a PRB/VRB is only a secondary signaling device; b) state that the PRB/VRB is not GMDSS-approved or a substitute for any GMDSS-approved equipment; c) inform users of the expected performance of the device such as the probable ranges under differing conditions; and d) inform users that the PRB/VRB is not a life-saving device, and does not function as an EPIRB, ELT, or PLB, and does not communicate with any satellite.

10. 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

Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau

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*Order and Further Notice of Proposed Rule Making*, WT Docket No. 00-48, 17 FCC Rcd 6741, 6761-62 n.124 (2002) (clarifying that the decision to phase out the use of Class B EPIRBs was not intended to preclude the continued manufacture and use of such man-overboard devices for which waivers had been granted).

<sup>15</sup> Compliance with the battery life and power requirements for GMDSS SARTs would require a larger heavier battery, and compliance with the beamwidth limitation could require a larger antenna.

<sup>16</sup> Edelweiss proposed to provide the first three pieces of information on the product, in the retail package labeling, and in the user manual, but to include the fourth item only in the user manual. We conclude, however, that all of the information should appear on the product and in the retail package labeling as well, in order to clearly delineate the PRB/VRB's limited purpose.