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Small Entity Compliance Guide

Amendment of the Commission's Rules Regarding Maritime Radio Equipment and Related Matters

FCC 16-119
WT Docket No. 14-36
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This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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I. OBJECTIVES OF THE PROCEEDING

In the *Report and Order* in WT Docket No. 14-36, the Commission adopted rules which are intended to update the rules and requirements for technologies used to locate and rescue distressed ships and individuals in distress at sea or on land, to provide better and more accurate data to rescue personnel.

The *Report and Order* permits the maritime community to make use of the most advanced and reliable communications technologies available for the alerting of search and rescue authorities when a vessel is in distress. Also, these decisions further the Commission's goal of ensuring that the spectrum allocated for maritime communications is used effectively and efficiently. The final rules adopted in the *Report and Order* became effective in early 2017.¹

II. COMPLIANCE REQUIREMENTS

In the *Report and Order* the Commission addressed several issues pertaining to the Maritime Radio Services and updated the rules and requirements in order to better protect lives and property at sea, as well as support improved day-to-day operations, including:

- Requiring Emergency Position Indicating Radio Beacons (EPIRBs) to be capable of broadcasting position data when activated to improve the ability of rescue personnel to locate distressed ships.
- Updating the equipment standards for Personal Locator Beacons (PLBs) to ensure that PLBs meet the updated functional and technical parameters necessary to meet the distress alerting needs of the public.
- Requiring that devices marketed for use in the United States as Satellite Emergency Notification Devices (SENDs) meet the requirements of the Radio Technical Commission for Maritime Services (RTCM) SEND standard to promote the reliability of devices used for tracking in emergency situations.
- Permitting equipment certification and use of Maritime Survivor Locating Devices (MSLDs) that comply with RTCM MSLD standards to enhance maritime safety.
- Providing for equipment certification and use of Automatic Identification System Search and Rescue Transmitters (AIS-SARTs) that comply with international standards, which will contribute to maritime safety.
- Clarifying the Commission's rules regarding ship radar equipment to eliminate references to an obsolete standard.
- Permitting limited use of portable marine very high frequency (VHF) radio transmitters by persons on shore in areas adjacent to the water for communications relating to the

¹ After the *Report and Order* was released, the Commission reorganized and renumbered the Part 95 rules. See *Review of the Commission's Part 95 Personal Radio Services Rules; Petition for Rulemaking of Garmin International, Inc.; Petition for Rulemaking of Omnitronics, L.L.C.*, Report and Order, 32 FCC Rcd 4295 (2017). The Part 95 reorganization and renumbering impacted Sections 95.1402 and 95.1403 discussed in the Guide. Consequently, the final rules in Section 95.1402 are now contained in Sections 95.2987-95.2993; and the final rules in Section 95.1403 are now contained in Sections 95.2903, 95.2963, 95.2987-95.2991.

operational and business needs of the associated vessel to provide flexibility in the use of marine radio equipment in a manner that furthers maritime safety.

- Permitting VHF digital small message service (VDSMS) on certain maritime VHF channels, in order to promote flexibility and efficiency in the use of marine radio equipment in a manner that furthers maritime safety.
- Allowing assignment or transfer of control of ship station licenses, removing a regulatory hurdle to secondary market transactions.
- Making certain editorial changes to correct certain erroneous cross-references and deletions and other typographical errors in the Part 80 rules.

A. Emergency Position Indicating Radio Beacons (EPIRBs) (47 CFR § 80.1061)

The Commission revised Part 80 to incorporate by reference the revised RTCM EPIRB standard, which requires an EPIRB to contain an internal navigation device that will provide position data upon activation. This action is in the public interest because better location availability reduces search time and therefore contributes to the success of emergency rescues. Pursuant to amended Section 80.1061 of the rules:

- EPIRBs must comply with the RTCM Standard 11000.3.
- Vessels that are required to carry EPIRBs must replace their existing non-compliant radio beacons with EPIRBs that meet the new standard within six years of the effective date of the *Report and Order*.
- The Commission will cease accepting applications for certification of EPIRBs that do not comply with this standard beginning one year after the effective date of the rules adopted in the *Report and Order*.
- The continued manufacture, importation, and sale of EPIRBs that do not comply with this standard will be prohibited beginning three years after the effective date of the *Report and Order*.
- The use of prior-generation EPIRBs that operate only on 121.5/243 MHz and do not operate on 406 MHz is prohibited.

B. Personal Locator Beacons (PLBs) (47 CFR § 95.1402)²

The Commission revised Part 95 to incorporate by reference the revised RTCM PLB standard, which updates various technical requirements and adds test procedures for PLBs with integral Global Navigation Satellite System receivers or internal navigation devices. Better location availability minimizes search time and therefore contributes to the success of emergency rescues. Compliance with the new testing protocol will not materially affect PLB prices, so this requirement will impose little or no additional cost on purchasers of PLBs that comply with the new standard. Pursuant to amended Section 95.1402 of the rules:

- PLBs must comply with the RTCM Standard 11010.2.

² The provisions of Section 95.1402 discussed below are now contained in Sections 95.2987-95.2993.

- The Commission will cease accepting applications for certification of non-compliant PLBs beginning one year after the effective date of the rules adopted in the *Report and Order*.
- The continued manufacture, importation, and sale of non-compliant PLBs is prohibited three years after the effective date of the *Report and Order*.
- The use of 406 MHz band by PLBs is limited to “distress and safety of life communications,” instead of “distress and safety communications.” This clarification makes clear that PLB use should be under emergency conditions and for survival purposes. While non-life threatening emergencies or safety communications are important functions, use of PLBs to alert rescuers should be limited to situations of grave and imminent danger.

C. Satellite Emergency Notification Devices (SENDS) (47 CFR § 25.301)

The Commission amended Part 25 to prohibit devices that do not meet the RTCM SEND standard from being marketed or sold as a SEND or “Satellite Emergency Notification Device.” Users rely on devices that provide a means for individuals in remote areas to alert others of an emergency and to aid rescue personnel to locate those in distress, and they expect those devices to perform in a manner similar to PLBs (which are required to meet the relevant RTCM standard). Pursuant to Section 25.301 of the rules:

- The term SEND refers only to a device that meets the requirements set forth in the RTCM SEND Standard 12800.0.
- It is unlawful to market for use in the United States a non-compliant device as a SEND.

D. Maritime Survivor Locating Devices (MSLDs) (47 CFR § 95.1403)³

The Commission amended Part 95 to incorporate by reference RTCM’s MSLD standard to allow certification and use of devices meeting that standard. Allowing for certification and use of MSLDs will enhance safety for individuals on or near the water by providing for earlier alerting and rescues that are both more rapid and effective and less costly. Pursuant to Section 95.1043 of the rules:

- MSLDs must comply with the RTCM Standard 11901.1.
- No device may be marketed or sold in the United States as an MSLD unless it complies with the requirements of RCTM 11901.
- Coordination of applications for equipment authorization with the Coast Guard is required to assure that MSLDs meet the RTCM MSLD standard. The certification of MSLDs that include a function intended to send a distress message directly to the Coast Guard or any other search and rescue organization will not be permitted unless that function is endorsed by the Coast Guard in its pre-certification review.
- The continued manufacture, importation, and sale of non-compliant devices is prohibited as of one year after the effective date of the rules adopted in the *Report and Order*.

³ The provisions of Section 95.1403 discussed below are now contained in Sections 95.2903, 95.2963, 95.2987-95.2991.

- Devices that were approved by waiver but do not comply with the RCTM 11901 standard, may continue to be used.

E. Automatic Identification System Search and Rescue Transmitters (AIS-SARTs) (47 CFR § 80.233)

AIS-SARTs represent an important tool for improving maritime safety and have gained international acceptance, so the Commission revised Part 80 to incorporate by reference the International Maritime Organization (IMO) and International Electrotechnical Commission (IEC) standards for AIS-SARTs. Pursuant to amended Section 80.233 of the rules:

- AIS-SARTs must comply with the IEC Standard 61097-14 Ed. 1.0 (2010-02) and IMO Resolution MSC.246 (83).
- AIS-SART equipment certification applications must be coordinated with the Coast Guard, as is required for other AIS equipment.
- The Commission will use the term “search and rescue locating devices” when referring to both traditional SARTs and AIS-SARTs.

F. Ship Radar (47 CFR § 80.273)

The Commission amended Part 80 by removing the incorporation by reference of IEC 62252 because manufacturers have not designed or built radar sets to this standard, and IEC has withdrawn the standard. Pursuant to amended Section 80.273 of the rules:

- Voluntary vessels are permitted to carry radar equipment intended for use solely on voluntary vessels, without reference to any particular standard.
- Radar installations on compulsory vessels must meet the latest IEC 62388 standard.

G. Portable Marine VHF Radios on Shore (47 CFR § 80.115)

The Commission allowed the use of portable VHF radios ashore, so long as it is limited to enhancing the usefulness of marine VHF radios without negatively affecting maritime communications. Pursuant to amended Section 80.115 of the rules:

- Use of portable marine VHF radios is permitted only in areas adjacent to the water, such as docks and beaches.
- Consistent with the Commission’s requirements for offshore use, onshore communications using such radios must relate to the operational and business needs of the associated vessel, and must be limited to the minimum practicable transmission time.

The Commission’s Enforcement Bureau will continue to investigate complaints against operators who improperly use marine VHF radios, particularly any violation that concerns unauthorized transmissions on 156.800 MHz (VHF Channel 16).

H. VHF Digital Small Message Services (VDSMS) (47 CFR § 80.364)

The Commission amended Part 80 to incorporate by reference the RTCM VDSMS standard in order to permit transmission of short data messages on VHF maritime private communications frequencies which would advance the Commission’s goal of promoting flexibility and efficiency in the use of marine radio equipment in a manner that would further maritime safety. Pursuant to Section 80.364 of the rules:

- VDSMS is not permitted on or adjacent to marine safety and security channels (including port operations channels) and other channels excluded under Appendix 18 of the ITU Radio Regulations.
- VDSMS operation on the non-excluded VHF frequencies is subject to existing eligibility requirements (*See* 47 C.F.R. § 80.373(f)).

I. Removal of Prohibition against the Assignment or Transfer of Control of Ship Licenses (47 CFR § 1.948)

The Commission eliminated the prohibition in Section 1.948 of the rules against the assignment and transfer of control of ship station licenses. Permitting such assignments and transfers of control will be more administratively efficient than requiring all prospective licensees to secure new licenses, and affording such licensees this flexibility will reduce their transaction costs. Under the amended Section 1.948:

- Subsection (b)(5) no longer prohibits the assignment or transfer control of a ship station license.
- Ship station licensees and potential licensees must obtain Commission approval for an assignment or transfer of control of a ship station license. Failure to attain approval may result in enforcement action being taken against the entities involved.

J. Editorial Corrections (47 CFR §§ 80.7, 80.157, 80.159, 80.203, 80.1005)

The Commission corrected certain Part 80 rules by changing erroneous references to Title II of the Communications Act to refer to Title III, restored subparagraphs that were inadvertently deleted, and corrected typographical errors.

III. RECORDKEEPING REQUIREMENTS

The *Report and Order* contains new information collection requirements. Specifically, the Commission established requirements for the certification of MSLDs and AIS-SARTs. These rules require that applicants for certification submit specified information, including copies of test reports and test data, to the United States Coast Guard prior to filing their applications with the Commission, and that they include with their applications to the Commission copies of letters from the United States Coast Guard stating that the device in question satisfies all of the requirements of the pertinent standard.

IV. INTERNET LINKS

A copy of the *Report and Order*, FCC 16-119, WT Docket No. 14-36 is available at: https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-119A1.pdf.

A copy of the Federal Register Summary of the *Report and Order* is available at: <https://www.gpo.gov/fdsys/pkg/FR-2016-12-15/pdf/2016-29612.pdf>.