

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

In the Matter of )  
 )  
Amendment of the Commission’s Rules ) PR Docket No. 92-257  
Concerning Maritime Communications )

**FOURTH FURTHER NOTICE OF PROPOSED RULE MAKING**

**Adopted: December 11, 2001**

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**Comment Date:** [60 days after Federal Register publication]

**Reply Comment Date:** [90 days after Federal Register publication]

By the Commission:

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## I. INTRODUCTION AND EXECUTIVE SUMMARY

1. In the *Third Report and Order and Memorandum Opinion and Order* in this proceeding, the Commission amended its rules to permit VHF public coast (VPC) licensees to operate on 12.5 kHz offset frequencies where they are authorized to operate on both 25 kHz frequencies adjacent to the offset frequency.<sup>1</sup> In this *Fourth Further Notice of Proposed Rule Making*, we address the recommendations filed by VPC licensee Maritel, Inc. (Maritel) and the United States Coast Guard (Coast Guard) regarding this and other matters regarding VPC operations. Specifically, we seek comment on the following:

- Our tentative conclusions not to include the 12.5 kHz offset channels in our table of frequencies for VPC; and not to propose occupied bandwidth, emission mask, and related regulations that would govern the operation of VPC stations that employ 12.5 kHz narrowband channels.
- Our tentative conclusion to reject Maritel's recommendation that geographic area VPC licensees be required to retain a watch only (1) after the licensee's construction requirement has passed or a licensee has actually constructed facilities in an area; and (2) the licensee receives written notification from the Coast Guard that a watch should be maintained.
- Whether Part 90 public safety entities will be adversely affected by the reallocation of nine VHF channel pairs to VPC licensing.
- Our proposal to allow the Coast Guard and VPC licensees the additional flexibility to choose non-offset, as well as offset, channel pairs when negotiating an agreement regarding the specification of two narrowband channel pairs that will be used by the Coast Guard for its Ports and Waterways Safety System (PAWSS).<sup>2</sup>
- Our proposal to expand the types of emission masks and designators permissible under Part 80 of the Commission's Rules in order to allow VPC licensees to provide a full range of data services.
- Whether to eliminate the station identification requirement for geographic area VPC licensees.
- Our proposals to allow public coast stations to maintain station documents via electronic means, and to limit the posting requirement for VPC geographic area licensees to a document identifying the licensee and a representative that may be contacted to answer any questions regarding the operation of a particular station transmitter.

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<sup>1</sup> Amendment of the Commission's Rules Concerning Maritime Communications, *Third Report and Order and Memorandum Opinion and Order*, PR Docket No. 92-257, 13 FCC Rcd 19853, 19874 ¶ 45 (1998) (*Third Report and Order*); see also 47 C.F.R. § 80.371(c)(1)(iii).

<sup>2</sup> PAWSS will provide Vessel Traffic Services to facilitate the safe and efficient transit of vessel traffic to prevent collision, groundings, and environmental damage associated with maritime accidents. See *Third Report and Order*, 13 FCC Rcd at 19875 ¶ 46.

## II. BACKGROUND

2. The Maritime Radio Services provide for the unique distress, operational, and personal communications needs of vessels at sea and on inland waterways.<sup>3</sup> There are two types of coast stations: public coast stations and private coast stations. Public coast stations are commercial mobile radio service (CMRS) facilities that allow ships at sea to send and receive messages and to interconnect with the public switched network.<sup>4</sup> Each public coast station has exclusive use of one or more public correspondence channels within its service area or region of operation. By contrast, private coast stations operate on shared frequencies to serve vessels' business and operational needs, and licensees may not charge fees for the provision of communications services. Both public and private coast stations may use very high frequency (VHF) band frequencies to serve a port or coastal area; or low frequency (LF), medium frequency (MF), and high frequency (HF) band frequencies to serve vessels on the high seas, often hundreds or even thousands of miles from land. Maritime frequencies are allocated internationally by the International Telecommunication Union (ITU) to facilitate interoperable radio communications among vessels of all nations and stations on land worldwide.

3. On July 9, 1998, the Commission released a *Third Report and Order and Memorandum Opinion and Order (Third Report and Order)* in this proceeding, in which it adopted rules to utilize a geographic area licensing approach for VPC stations.<sup>5</sup> The Commission designated forty-two licensing regions, known as VHF Public Coast Station Areas (VPCSA).<sup>6</sup> The new rules provided for a single licensee for all unassigned VHF public correspondence channels in each area to be selected by competitive bidding.<sup>7</sup> The Commission permitted the continued operation of incumbents using VPC station spectrum, and required incumbents and geographic area licensees to afford each other interference protection.<sup>8</sup> In accordance with the *Third Report and Order*, the Commission conducted an auction of the forty-two VPC licenses from December 3, 1998, to December 14, 1998.<sup>9</sup> On May 19, 1999, twenty-six VPC licenses were granted by the Commission.<sup>10</sup> On June 13, 2001, the Commission completed the auction for the remaining sixteen VHF public coast licenses.<sup>11</sup> Maritel is the geographic licensee for VPCSA 1-9, which

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<sup>3</sup> For a fuller description of the Maritime Radio Services and the history of this proceeding, see Amendment of the Commission's Rules Concerning Maritime Communications, *Second Report and Order and Second Further Notice of Proposed Rule Making*, PR Docket No. 92-257, 12 FCC Rcd 16949, 16953-56 ¶¶ 4-9 (1997) (*Second Report and Order and Second Further Notice*).

<sup>4</sup> See Implementation of Sections 3(n) and 332 of the Communications Act -- Regulatory Treatment of Mobile Services, *Second Report and Order*, GN Docket No. 93-252, 9 FCC Rcd 1411, 1448 ¶ 83 (1994) (*CMRS 2nd R&O*); see also 47 C.F.R. § 20.9(a)(5).

<sup>5</sup> *Third Report and Order*, 13 FCC Rcd at 19855-56 ¶ 1.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> See Auction of 156-162 MHz VHF Public Coast Service Licenses, *Public Notice*, 13 FCC Rcd 24874, 2874 (1998); VHF Public Coast Service Auction Closes, *Public Notice*, 14 FCC Rcd 480, 480 (1999).

<sup>10</sup> See FCC Announces the Conditional Grant of 26 VHF Public Coast Service Licenses, *Public Notice*, DA 99-195, at 1 (rel. May 21, 1999).

collectively encompass the Atlantic, Pacific, and Gulf Coasts; the Mississippi River system; and Alaska and Hawaii.<sup>12</sup>

4. On March 24, 2000, the Commission released a *Notice of Proposed Rulemaking (NPRM)* in WT Docket No. 00-48 that proposed rule changes that were intended to consolidate, revise and streamline the Commission's Rules governing maritime communications, pursuant to requests from the National Global Maritime Distress Safety System (GMDSS)<sup>13</sup> Implementation Task Force and Globe Wireless, Inc.<sup>14</sup> These changes were proposed to address new international maritime requirements, improve the operational ability of all users of marine radios and remove unnecessary or duplicative requirements from the Commission's Rules.<sup>15</sup> In response to this *NPRM*, the Commission received comments from, among others, Maritel and the Coast Guard. To the extent that these comments relate to public coast station issues, rather than GMDSS implementation, we believe that the present proceeding offers the more appropriate forum for their resolution. Consequently, we have incorporated these comments in WT Docket No. 00-48 into the record of PR Docket No. 92-257.<sup>16</sup>

### III. DISCUSSION

#### A. Distress Communications

5. VPC stations are part of an international safety system intended to provide assistance to vessels in distress. Vessel operators use marine VHF Channel 16 (156.8 MHz) in the same manner that landline telephone subscribers dial "911" in an emergency. VPC stations, as well as other nearby vessels, respond to the vessel operators' distress messages and then relay the messages to local search and rescue authorities. The Coast Guard, which is responsible for search and rescue operations at sea and on inland waterways in the United States, monitors VHF Channel 16 for these distress messages.

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<sup>11</sup> See VHF Public Coast and Location and Monitoring Service Spectrum Auction Closes, *Public Notice*, DA 01-1443 (rel. June 15, 2001). Maritel was the winning bidder for VPCsAs 010, 012, 015, 019, 020, 021, and 022. *Id.* at Attachment A. Three other parties submitted the high bids for the other nine VPCsAs. *Id.* The applications for those licenses remain pending.

<sup>12</sup> *Id.* at A-1. Three other licensees hold licenses for 15 VPCsAs.

<sup>13</sup> The GMDSS is primarily a ship-to-shore system (though it has ship-to-ship capabilities) for the transmission of distress communications. Instead of manual Morse code radiotelegraphy, the system utilizes automated (or semi-automated) communications via satellite, and advanced terrestrial systems using digital selective calling (DSC). DSC is a digital signaling system that allows ship and shore stations to call each other directly, rather than requiring a radio operator to continuously monitor a common calling channel to identify specific calls directed to the station. See Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications, *Notice of Proposed Rule Making and Memorandum Opinion and Order*, WT Docket No. 00-48, 15 FCC Rcd 5942, 5946 ¶ 5 (2000) (*NPRM*).

<sup>14</sup> *Id.* at 5944 ¶ 1

<sup>15</sup> *Id.*

<sup>16</sup> All citations in this item to comments refer to comments originally filed in WT Docket No. 00-48.

6. Currently, the Commission requires site-based as well as geographic area VPC licensees to maintain a continuous safety watch on VHF Channel 16 unless exempted.<sup>17</sup> Under Section 80.303(b), a VPC licensee is exempted if a federal, state, or local government station maintains such a watch over 95 percent of the VPC licensee's service area.<sup>18</sup> Maritel suggests that the Commission amend its regulations so that geographic area VPC licensees are required to maintain a Channel 16 safety watch only (1) after the licensee's construction requirement has passed or a licensee has actually constructed facilities in an area; and (2) the licensee receives written notification from the Coast Guard that a watch should be maintained.<sup>19</sup> The Coast Guard opposes Maritel's proposed amendment, and states that VPC licensees are already relieved of the VHF Channel 16 safety watch requirement to a great extent because of the exemption.<sup>20</sup> It believes that once its new VHF National Distress and Response System Modernization Project is implemented, many more VPC licensees will be eligible for the exemption.<sup>21</sup>

7. We believe that it is unnecessary to propose that a watch be required only after the licensee's construction requirement has passed or a licensee has actually constructed facilities in an area, because the Commission presently requires that a watch be maintained during a station's "hours of operation."<sup>22</sup> The phrase "hours of operation" clearly implies that a licensee is subject to watch requirements only when there is a fully constructed station. Furthermore, due to the important purpose of the VHF Channel 16 safety watch (*i.e.*, to ensure that distress calls outside of the service area of a federal, state, or local government station, but within a VPC licensee's service area, are heard), we believe that the onus should be on the licensee of the public coast station to immediately initiate and maintain the watch, rather than to wait for written notification from the Coast Guard, as Maritel recommends. We seek comment on our tentative conclusion to reject Maritel's recommendation.

8. The Coast Guard recommends that VPC licensees be required to notify it in advance of any station relocation that will affect the licensee's VHF Channel 16 safety watch responsibility, whether or not the licensee is subject to the exemption.<sup>23</sup> In addition, Maritel recommends that when a VPC licensee (both exempted and non-exempted) discontinues service, and such licensee is providing a watch under Section 80.303 of the Commission's Rules,<sup>24</sup> the licensee should be required to notify the Coast Guard thirty days in advance of such discontinuance.<sup>25</sup> We do not believe that adoption of the Coast Guard and Maritel's recommendations is necessary because the Commission already requires that notification be made by the licensee to the nearest district office of the Coast Guard thirty days prior to discontinuing the watch

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<sup>17</sup> 47 C.F.R. § 80.303. *See* Request for Waiver of the Requirements in Sections 80.303 and 80.453 of the Rules to Permit Public Coast Station WHU487 to Cease Safety Watch on 156.800 MHz and Serve Mobile Vehicles on Land, *Order*, 9 FCC Rcd 221, 221 ¶ 2 (PRB SSD 1994).

<sup>18</sup> 47 C.F.R. § 80.303(b).

<sup>19</sup> Maritel Comments at 5.

<sup>20</sup> Coast Guard Reply Comments at 3.

<sup>21</sup> *Id.*

<sup>22</sup> 47 C.F.R. § 80.303.

<sup>23</sup> Coast Guard Reply Comments at 3.

<sup>24</sup> 47 C.F.R. § 80.303.

<sup>25</sup> Maritel Comments at 13-14.

pursuant to the exemption of Section 80.303(b);<sup>26</sup> and as soon as practicable when changes occur in the operation of a public coast station, which includes discontinuance, reduction or suspension of a VHF Channel 16 safety watch.<sup>27</sup> Neither commenter has indicated that the Coast Guard is getting insufficient notice under the current regulatory framework. For the foregoing reasons, we believe that the recommendations of both Maritel and the Coast Guard are sufficiently satisfied by these existing rules. Nevertheless, we propose that Section 80.302(a) be amended so that it also requires notification to the Coast Guard be made as soon as practicable when a VPC station with VHF Channel 16 safety watch responsibility is relocated. We seek comment on our tentative conclusions.

## **B. Frequency Assignments**

### **1. Specification of 12.5 kHz Channels**

9. The basic channelization for VPC spectrum is set forth in the ITU Radio Regulations as 25 kHz.<sup>28</sup> However, after the ITU authorized the use of 12.5 kHz (narrowband) channels to relieve local congestion, the Commission decided to permit VPC licensees to operate on 12.5 kHz offset frequencies where their station is authorized to operate on both 25 kHz frequencies adjacent to the offset frequency.<sup>29</sup> The Commission, however, did not adopt technical rules to govern 12.5 kHz operation. Maritel states that it wants to conduct narrowband operations, but cannot because of the absence of such technical regulations.<sup>30</sup> It recommends that the Commission include the 12.5 kHz offset channels in the VPC table of frequencies.<sup>31</sup> It also recommends that the Commission amend Part 80 by adopting the occupied bandwidth, emission mask and related regulations that govern the operation of stations that employ 12.5 kHz narrowband channels from our Part 90 Rules.<sup>32</sup>

10. The Commission's intent when it adopted the rule permitting offset operations without also adopting technical rules for narrowband operations was to leave such matters to the licensee's discretion, provided that the emissions are attenuated at the edge of the licensee's contiguous 25 kHz channels. Thus, we disagree with Maritel's conclusion that offset operations are prohibited absent additional technical regulations. We instead believe that the lack of specific regulation in this area affords licensees with greater flexibility to initiate offset operations. Therefore, we conclude that technical flexibility should be

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<sup>26</sup> 47 C.F.R. § 80.303(b).

<sup>27</sup> 47 C.F.R. § 80.302(a).

<sup>28</sup> See *Second Further Notice*, 12 FCC Rcd at 16998 ¶ 96.

<sup>29</sup> *Third Report and Order*, 13 FCC Rcd at 19874 ¶ 45 (citing ITU Radio Regulations Art. S52, App. S18 n.e); see 47 C.F.R. § 80.371(c)(1)(iii). The Commission already has afforded Automated Maritime Telecommunications System (AMTS) licensees such flexibility. See *Second Further Notice*, 12 FCC Rcd at 16998-99 ¶ 96.

<sup>30</sup> See Maritel Comments at 7 (claiming that, because the technical rules do not specify offset operational characteristics, the Commission's Rules do not currently support actual offset operations). On a related note, the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, granted Maritel's request for waiver of certain Part 80 rules to permit type certification for 12.5 kHz offset radio equipment. See Maritel, Inc., Request for Waiver of Part 80 Regulations to Permit Use of 12.5 kHz Radio Equipment Operating in the 156-162 MHz Frequency Band, *Order*, DA 01-1104 (PSPWD WTB rel. Apr. 30, 2001).

<sup>31</sup> Maritel Comments at 7; see 47 C.F.R. § 80.371(c).

<sup>32</sup> Maritel Comments at 7.

maintained and that Maritel's recommended regulations not be imposed. We note that under the current approach there have been very few complaints regarding interference caused by VPC stations. We believe that as long as VPC licensees remain aware that the transmitted signal needs to be attenuated at the edge of the contiguous channels, the risk of interference should remain slight. We seek comment on our tentative conclusion. Commenters who are in agreement with Maritel should address whether any requirements it proposes are consistent with existing international standards.<sup>33</sup>

11. Although we disagree with Maritel that its recommended regulations are essential to the provision of narrowband operations, we note that Section 80.213(d) of our Rules currently provides that maritime VHF transmitters "must be capable of proper operation with a frequency deviation of +/- 5 kHz when using any emission authorized by § 80.207."<sup>34</sup> To avoid any uncertainty as to whether this provision requires a frequency deviation of +/- 5 kHz, which would not be compatible with 12.5 kHz narrowband operations,<sup>35</sup> or instead permits any frequency deviation up to +/- 5 kHz, we propose to revise the rule to provide that the equipment "must be capable of proper operation with a frequency deviation that does not exceed +/- 5 kHz."<sup>36</sup> We seek comment on this proposal. We also seek comment on our proposal to amend our Rules to make clear that offset operations require Canadian coordination whenever operation on either adjoining 25 kHz channel would require Canadian coordination.

## 2. Use of Additional VHF Channels

12. There are currently ten 25 kHz channel pairs in the 157.200-157.425 MHz (ship transmit) and 161.800-162.025 MHz (coast transmit) bands assignable to VPC stations for public correspondence, though there is no area where all ten are assignable to U.S. VPC stations.<sup>37</sup> Maritel proposes that the Commission reallocate nine channel pairs in the 156.0375-156.2375 MHz band and the 160.6375-160.8375 MHz band<sup>38</sup> (already designated on an international basis for public correspondence use) for VPC stations on a domestic basis.<sup>39</sup> Maritel argues that reallocation is needed because there are currently fewer channels available for VPC operations in the United States than there are in other countries.<sup>40</sup> It also

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<sup>33</sup> See ITU Radio Recommendation M.1084.

<sup>34</sup> 47 C.F.R. § 80.213(d).

<sup>35</sup> In a typical narrowband frequency modulated system, a reduction of the frequency deviation from 5 kHz to 2.5 kHz is necessary in order for the resulting signal to be of a useable quality.

<sup>36</sup> Cf., e.g., 47 C.F.R. § 80.205(b).

<sup>37</sup> See 47 C.F.R. § 80.371(c)(1)(i). Channel 88 may be authorized only within 120 kilometers (75 miles) of the Canadian border on the Great Lakes, the St. Lawrence Seaway, and the Puget Sound and the Strait of Juan de Fuca and its approaches. See *id.* Certain other channels are not available along the Canadian border. See 47 C.F.R. § 80.57.

<sup>38</sup> 156.0375 MHz / 160.6375 MHz, 156.0625 MHz / 160.6625 MHz, 156.0875 MHz / 160.6875 MHz, 156.1125 MHz / 160.7125 MHz, 156.1375 MHz / 160.7375 MHz, 156.1625 MHz / 160.7625 MHz, 156.1875 MHz / 160.7875 MHz, 156.2125 MHz / 160.8125 MHz, 156.2375 MHz / 160.8375 MHz.

<sup>39</sup> Maritel Comments at 8, and Exhibit A.

<sup>40</sup> *Id.* at 8; see also National GMDSS Implementation Task Force Comments at 3 ("there is an extreme shortage of available VHF channels and recommends that all available solutions such as narrow banding should be undertaken to provide relief").

argues that a reallocation of the nine channel pairs would harmonize United States allocations with the international community.<sup>41</sup>

13. Three of Maritel's recommended frequencies are currently allocated for Part 90 public safety use,<sup>42</sup> and three others are currently allocated for Part 90 Industrial/Business use.<sup>43</sup> Maritel states that there is extremely light demand for these six frequencies from Part 90 eligibles.<sup>44</sup> The remaining twelve frequencies that Maritel requests for maritime use do not have a current Part 90 allocation, but are adjacent to channels that are allocated for Part 90 public safety or Part 90 Industrial/Business use. Maritel suggests that we "grandfather" the incumbents so that their operations are protected from newly authorized VPC licensees, or develop a transition scheme that would conclude with Part 90 incumbent operations becoming secondary to VPC operations.<sup>45</sup> Maritel believes that a reallocation will cause minimal impact on Part 90 public safety licensees because the Commission has provided such licensees with additional spectrum in higher frequency bands.<sup>46</sup> Finally, Maritel requests that the Commission immediately freeze the further licensing of this spectrum as a prelude to an auction.<sup>47</sup>

14. Although, as Maritel suggests, some Part 90 public safety licensees will eventually relocate to frequency bands that are higher than the VHF spectrum in order to enjoy the benefits of more sophisticated handsets,<sup>48</sup> we note that VHF spectrum is still considered ideal for many public safety entities because its propagation characteristics can ensure coverage to a wide service area. We also note that the higher frequency band referenced by Maritel, 746-806 MHz, is still encumbered by incumbent broadcast television licensees, which do not have to vacate this band until the conclusion of the digital television transition period, December 31, 2006 at the earliest.<sup>49</sup> For these reasons, we conclude that we should not propose to adopt Maritel's recommended reallocation approach with respect to these channel pairs without first assessing the demand for this spectrum from Part 90 public safety eligibles.<sup>50</sup> Therefore, we seek comment on whether public safety, as opposed to maritime, has a greater immediate need for this VHF

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<sup>41</sup> Maritel Comments at 9.

<sup>42</sup> 156.0375 MHz, 156.1125 MHz, and 156.1875 MHz.

<sup>43</sup> 160.6875 MHz, 160.7625 MHz, and 160.8375 MHz.

<sup>44</sup> Maritel Comments at 9 n.11. A review of our licensing database indicates that there are two public safety entities licensed to operate on 156.1875 MHz; twenty-six public safety entities licensed to operate on 156.1125 MHz; and ten public safety entities licensed to operate on 156.0375 MHz. There are two entities that are licensed to operate on all three channels that are currently allocated for Part 90 Industrial/Business use.

<sup>45</sup> *Id.* at 8 n.9.

<sup>46</sup> *Id.* at 8-9 (citing Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010, *First Report and Order and Third Notice of Proposed Rule Making*, WT Docket No. 96-86, 14 FCC Rcd 152 (1998) (*Public Safety First Report and Order*)).

<sup>47</sup> Maritel Comments at 8 nn.9, 10.

<sup>48</sup> *Id.* at 9.

<sup>49</sup> See *Public Safety First Report and Order*, 14 FCC Rcd at 159-161 ¶ 10.

<sup>50</sup> None of Maritel's proposed channel pairs can be reallocated without affecting public safety because the mobile transmit frequency of each is either directly allocated to public safety or is adjacent to a frequency that is allocated to public safety.



spectrum. We also seek comment on Maritel's recommended treatment of public safety incumbents if reallocation of these nine channel pairs to VPC is ultimately adopted. Finally, we seek comment on our tentative conclusion that a freeze of this spectrum as a prelude to a VPC auction is not needed to maintain the regulatory landscape because there is no reason to expect any upsurge in licensing activity on these frequencies pending the resolution of this proceeding.

### 3. Automatic Identification Systems

15. Our Rules currently require that each licensee of VHF Public Coast Service Areas 1-9 enter into an agreement with the Coast Guard to specify two 12.5 kHz offset channel pairs that will be used by the Coast Guard for Automatic Identification Systems (AIS)<sup>51</sup> and related systems, in support of PAWSS, which will provide Vessel Traffic Services to facilitate the safe and efficient transit of vessel traffic to prevent collisions, groundings, and environmental damage associated with maritime accidents.<sup>52</sup> Maritel requests that Section 80.371(c)(3) of the Commission's Rules be amended in order to provide VPC licensees and the Coast Guard with the additional flexibility to enter into an agreement that specifies "non-offset," rather than offset, channel pairs, if the parties so desire.<sup>53</sup>

16. The Commission chose a method of negotiation for determining the offset channel pairs, rather than pre-selecting channel pairs during the rulemaking proceeding, because it envisioned that such approach would provide both the Coast Guard and the VPC licensee with more flexibility.<sup>54</sup> The Commission's decision to specify that two channel pairs offset 12.5 kHz from the VHF band public correspondence channels be used for PAWSS was premised on the expectation that VPC licensees would prefer to retain all of their non-offset channels. We now agree with Maritel that the parties should be able to specify non-offset channel pairs if it is mutually agreeable. We seek comment on our proposal to adopt Maritel's recommendation. We also seek comment on whether, given that Maritel and the Coast Guard already have reached an agreement regarding PAWSS channels, the proposed amendment is moot.

17. In addition, we note that the Coast Guard commented on other AIS issues, such as equipment certification and technical rules.<sup>55</sup> Specifically, it requested that the Commission develop the necessary regulations to ensure that properly certified AIS equipment tested by an independent test facility is

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<sup>51</sup> The AIS is a VHF ship-ship/ship-shore transponder system using self-organizing time division multiple access techniques to assist ships in navigation and collision avoidance, especially in congested waters. *See* Coast Guard Comments at 33.

<sup>52</sup> 47 C.F.R. § 80.371(c)(3); *see Third Report and Order*, 13 FCC Rcd at 19875 ¶ 46.

<sup>53</sup> Maritel Comments at 10. Subsequently, on March 7, 2001, Maritel and the Coast Guard agreed that Channels 87 A/B (157.375 MHz/161.975 MHz) would be set aside for PAWSS in VPCAs 1-9. Memorandum of Agreement Between United States Coast Guard and the Maritime VHF Public Coast Area Licensee at 2 (dated Mar. 7, 2001); *see also* Wireless Telecommunications Bureau Announces the Selection of Two VHF Channel Pairs for the United States Coast Guard's Ports and Waterways Safety System, *Public Notice*, DA 01-925 (WTB PSPWD rel. Apr. 13, 2001).

<sup>54</sup> *Third Report and Order*, 13 FCC Rcd at 19876 ¶ 49 ("We prefer this procedure to setting channels aside in advance because we believe that it will allow the Coast Guard time to develop its AIS plans fully and coordinate AIS frequencies with neighboring countries. We also believe that such approach will enhance each maritime VPC licensee's ability to pursue its own business plan and allow the parties to determine how many channels are needed in each location.").

<sup>55</sup> *See* Coast Guard Comments at 33-35.

available to meet International Maritime Organization and Coast Guard vessel carriage regulations.<sup>56</sup> Therefore, we now seek comment generally on these and any other aspects of AIS implementation.

### C. Technical and Operational Matters

#### 1. Emission Masks and Designators for Data Services

18. Maritel states that the Commission's Part 80 rules currently do not permit the full range of possible data services.<sup>57</sup> In this regard, it argues that the Commission should adopt emission masks<sup>58</sup> and designators for such data services.<sup>59</sup> Specifically, Maritel suggests that any emission mode be permitted in Part 80 so long as the applicable mask limits are satisfied.<sup>60</sup> Maritel recommends that the Commission adopt, for use under Part 80, the emission mask requirements now applicable to transmitters accepted for use under Part 90.<sup>61</sup>

19. When formulating emission mask standards, the Commission endeavors to select out-of-band emission limits that will provide acceptable adjacent channel protection.<sup>62</sup> The Commission uses designators to identify what emissions are most likely to cause interference and what emissions are most sensitive to interference. However, we also seek to afford licensees with the broadest range of options to provide the services permitted in a particular radio service. We believe that expanding the data emissions permissible under Part 80 is in the public interest. We seek comment on our proposal to adopt emission masks and designators for the full range of possible data services as Part 90 licensees may offer.<sup>63</sup>

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<sup>56</sup> *Id.*

<sup>57</sup> Maritel Comments at 10.

<sup>58</sup> Emission mask is the technical specification that limits the distribution of power of a radio transmitter as a function of frequency. The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, *First Report and Order and Third Notice of Proposed Rulemaking*, WT Docket No. 96-86, 14 FCC Rcd 152, 213 n.337 (1998). The emission mask is an important technical parameter that affects the efficient use of a frequency band by limiting emissions from one channel into adjacent channels. See 1998 Biennial Regulatory Review – 47 C.F.R. Part 90 – Private Land Mobile Radio Services, *Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 98-182, 15 FCC Rcd 16673, 16689 ¶ 33 (2000).

<sup>59</sup> Emission designators classify and symbolize emission types by alphanumeric characters denoting the type of modulation, the nature of the signal modulating the main carrier, and the type of information to be transmitted. See 47 C.F.R. § 2.201.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Report and Order and Further Notice of Proposed Rule Making*, PR Docket No. 92-235, 10 FCC Rcd 10076, 10117 ¶ 81 (1995).

<sup>63</sup> 47 C.F.R. §§ 90.207, 90.210.

## 2. Station Identification

20. All maritime stations, including public coast stations, must provide station identification<sup>64</sup> at the beginning and end of each radiotelephone communication with any other station, and then once every fifteen minutes in between.<sup>65</sup> Maritel notes that the Commission has already eliminated and streamlined the rules governing station identification requirements for other CMRS providers in instances where there is a single licensee operating on a particular channel in a Commission-defined service area, and argues that VPC licensees should receive similar treatment.<sup>66</sup> Specifically, it recommends that only incumbent site-specific licensees be required to engage in station identification.<sup>67</sup> It contends that the Commission or other competent authority will always be able to assume that the use of a particular VPC channel will occur by the geographic area licensee, unless the site-specific licensee identifies itself.<sup>68</sup> Maritel adds that, in the case of any coast station that utilizes digital selective calling (DSC),<sup>69</sup> the unique coast station identification will automatically be transmitted,<sup>70</sup> so active station identification on the part of the VPC licensee is not necessary for the recipient of the communication to know with what station it is communicating. Finally, Maritel notes that the Commission has decided to forbear from the station identification requirements for AMTS, another Part 80 service.<sup>71</sup> We seek comment on Maritel's request. Commenters are encouraged to address whether issues, such as the current quantity of site-based VPC stations or the differences between the VPC and AMTS services,<sup>72</sup> render VPC distinguishable from those services where the Commission no longer requires station identification (*e.g.*, 929-930 MHz nationwide paging licensees or EA-based specialized mobile radio licensees).<sup>73</sup>

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<sup>64</sup> Identification generally is by call sign, but a VPC station may identify by either the approximate geographic location of the station or the area it serves when it is the only VPC station serving the location or there will be no conflict with the identification of any other station. 47 C.F.R. § 80.102(a), (e).

<sup>65</sup> 47 C.F.R. § 80.102(a). When public correspondence is being exchanged with a ship or aircraft station, the intermediate identification may be deferred until the completion of the communications. 47 C.F.R. § 80.102(a)(2).

<sup>66</sup> Maritel Comments at 11 (citing Implementation of Sections 3(n) and 332 of the Communications Act, *Memorandum Opinion and Order on Reconsideration*, GN Docket No. 92-252, 15 FCC Rcd 6341, 6346-47 ¶¶ 13-14 (2000)).

<sup>67</sup> Maritel Comments at 11.

<sup>68</sup> *Id.*

<sup>69</sup> DSC is a digital signaling system that allows ship and shore stations to call each other directly, rather than requiring a radio operator to continuously monitor a common calling channel to identify specific calls directed to the station. *See* Amendment of Parts 13 and 80 of the Commission's Rules to Implement the Global Maritime Distress and Safety System to Improve the Safety of Life at Sea, *Report and Order*, 7 FCC Rcd 951, 952 ¶ 4 (1992).

<sup>70</sup> Maritel Comments at 10-11.

<sup>71</sup> *See* Regionet Wireless License, LLC, *Order*, 15 FCC Rcd 16119 (2000).

<sup>72</sup> For example, AMTS customers use equipment that is compatible with only one AMTS provider, so the user always knows from whom he or she is receiving service. *Id.* at 16122 ¶ 7. This is not true with respect to VPC stations, which can provide service to any vessel within their service area that carries a standard VHF radio.

<sup>73</sup> 47 C.F.R. § 90.425(e)(1).

## D. Miscellaneous Issues

### 1. Station Documents

21. Maritel contends that compared to other CMRS providers, public coast stations are overburdened with requirements regarding what station documents need to be maintained and displayed.<sup>74</sup> Maritel recommends that, at a minimum, the Commission should allow station documents to be maintained electronically at a licensee's primary office or available to the Commission via secured access to the licensee's Internet web site.<sup>75</sup> It argues that the Commission's Rules should recognize that the requirements for data retention can be satisfied by the automatic logging capability of DSC-compatible systems.<sup>76</sup> Maritel also contends that the Commission requirement to post a current station authorization or a copy at the principal control point of each station<sup>77</sup> is burdensome in its case because it has nine geographic area licenses each of which can cover hundreds of transmitter sites.<sup>78</sup> Therefore, it suggests that the posting requirement be limited to a document identifying the licensee, where the license is maintained, and a telephone number of a representative of the licensee that may be contacted to answer any questions regarding the operation of the particular transmitter.<sup>79</sup>

22. The purpose of the station log requirements is to maintain a steady record of equipment performance and the details of distress communications.<sup>80</sup> Logs relating to distress communications must be made available for authorized Commission staff and be retained for a period of three years.<sup>81</sup> Electronic record keeping, as Maritel suggests, may offer conveniences for both the VPC licensee and the Commission. We believe that electronic record keeping, particularly when done by DSC-compatible systems, minimizes the risk of inadvertent data entry error.<sup>82</sup> Furthermore, provision of such information via secured access to the licensee's web page would provide the Commission with quick and easy access. For the foregoing reasons, we propose to adopt Maritel's request that VPC licensees be permitted to maintain records via electronic means.<sup>83</sup> To the extent these records are intended to be used only by Commission staff or for other official purposes, we tentatively conclude that questions of accessibility to

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<sup>74</sup> Maritel Comments at 12.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> 47 C.F.R. § 80.405(c).

<sup>78</sup> Maritel Comments at 13.

<sup>79</sup> *Id.*

<sup>80</sup> *See* 47 C.F.R. § 80.409(c)(3), (7).

<sup>81</sup> 47 C.F.R. § 80.405(b)(i).

<sup>82</sup> We note that automatic logging is already permitted by the Commission for the Aviation Radio Services. *See* 47 C.F.R. § 87.109; *see also* Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Service, *Notice of Proposed Rule Making*, WT Docket No. 01-289, 16 FCC Rcd 19005, 19014-15 ¶¶ 17-20 (2001).

<sup>83</sup> Under this approach, those VPC licensees who do not have access to electronic data keeping will still be required to maintain records under the current system.

electronic records to other persons or entities are not raised. We note, however, that other federal agencies have occasion to inspect station logs. For example, the Coast Guard and the National Transportation Safety Board sometimes refer to station logs as part of their accident investigations. Therefore, in addition to seeking comment on our proposal, we seek comment on whether electronic record keeping would be sufficient for these purposes. We also seek comment on whether any other entities, including state and local public safety organizations, rely on these records and, if so, whether these entities would find electronic records adequate.

23. The intent of the posting requirement is to provide a means for representatives of the Commission to ensure that a particular station is authorized to use the equipment.<sup>84</sup> Because there may be many stations authorized under a single geographic area VPC license, it may be appropriate that VPC licensees be treated slightly different from individual ship station licensees with regard to the posting requirement. For that reason, we propose to adopt Maritel's recommendation because we believe it will reduce the regulatory burden on VPC licensees while still ensuring that the vital information inherent in the posting requirement (*i.e.*, location of the license, and telephone number of the licensee's representative) will still be maintained at each particular station. We note that Part 90 private land mobile radio services are already governed by the type of posting requirement that we are proposing here.<sup>85</sup> We seek comment on our proposal.

## 2. Filing Requirements

24. In the *CMRS 2nd R&O*, the Commission classified all public coast stations as CMRS providers.<sup>86</sup> As part of that same action, the Commission exercised forbearance from enforcing the tariff filing obligations of Section 203 of the Communications Act of 1934, as amended (Act),<sup>87</sup> with respect to most domestic CMRS providers because it viewed CMRS as generally competitive.<sup>88</sup> The Commission also exercised its authority to forbear from Section 214<sup>89</sup> of the Act with respect to discontinuance of service.<sup>90</sup>

25. Based on these Commission decisions to forbear, Maritel recommends that Section 80.95(a)(1) of the Commission's Rules ("charges must not be made for service provided by any public coast station unless tariffs for the service are on file with the Commission"<sup>91</sup>) be amended to provide that public coast licensees should not be required to file tariffs for domestic services and for international services, unless there is an affiliation with a foreign carrier.<sup>92</sup> Maritel also recommends the elimination of Section 80.471

<sup>84</sup> See *Second Report and Order*, 12 FCC Rcd at 17066 ¶ 57.

<sup>85</sup> 47 C.F.R. § 90.437.

<sup>86</sup> *CMRS 2nd R&O*, 9 FCC Rcd at 1448 ¶ 83.

<sup>87</sup> 47 U.S.C. § 203.

<sup>88</sup> *CMRS 2nd R&O*, 9 FCC Rcd at 1478 ¶ 174.

<sup>89</sup> 47 U.S.C. § 214.

<sup>90</sup> *CMRS 2nd R&O*, 9 FCC Rcd at 1480-81 ¶ 182; 47 U.S.C. § 214(a) ("No carrier shall discontinue . . . unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby . . .").

<sup>91</sup> 47 C.F.R. § 80.95(a)(1).

<sup>92</sup> Maritel Comments at 12.

of the Commission's Rules ("a public coast station must not discontinue or impair service unless authorized to do so by the Commission"<sup>93</sup>).<sup>94</sup> Maritel argues that this requirement is inconsistent with the way other CMRS licensees are treated.<sup>95</sup>

26. We tentatively conclude that we should decline to adopt Maritel's recommendations for the following reasons. The Commission generally does not revise its service rules to eliminate requirements from which it is forbearing. We note that what Maritel recommends is already in effect. VHF public coast stations are domestic CMRS providers,<sup>96</sup> which, under Section 20.15 of the Commission's Rules, are not required to file tariffs or submit applications for discontinuance of existing facilities.<sup>97</sup> Therefore, pursuant to this rule, domestic public coast licensees are being treated in the same manner as other CMRS licensees. Furthermore, the Part 80 rules regarding discontinuance of service must remain in effect because the Commission has not exercised Section 214 forbearance for international CMRS providers, such as high seas public coast stations.<sup>98</sup> Consequently, we propose not to adopt Maritel's recommendations, but instead to add to Sections 80.95 and 80.471 a cross-reference to Section 20.15.

#### IV. PROCEDURAL MATTERS

##### A. Regulatory Flexibility Act

27. Appendix A contains an Initial Regulatory Flexibility Analysis (IRFA) with respect to the *Fourth Further Notice of Proposed Rule Making*. As required by the Regulatory Flexibility Act,<sup>99</sup> the Commission has prepared the analysis of the possible impact on small entities of the rules and proposed rules set forth in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Fourth Further Notice of Proposed Rule Making*, but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, will send a copy of this *Fourth Further Notice of Proposed Rule Making*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

##### B. Paperwork Reduction Analysis

28. This *Fourth Further Notice of Proposed Rule Making* contains a proposed information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this *Fourth Further Notice of Proposed Rule Making*, as required by the

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<sup>93</sup> 47 C.F.R. § 80.471.

<sup>94</sup> Maritel Comments at 13.

<sup>95</sup> *Id.*

<sup>96</sup> *See* 47 C.F.R. § 80.3(f).

<sup>97</sup> 47 C.F.R. § 20.15(b)(3), (c).

<sup>98</sup> *See CMRS 2nd R&O*, 9 FCC Rcd at 1464 ¶ 126 n.261 (did not propose forbearance for international CMRS), 1481 ¶ 182 n.369 (declined to propose forbearance for international CMRS).

<sup>99</sup> *See* 5 U.S.C. § 601, *et. seq.*

Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and agency comments are due at the same time as other comments on this *Fourth Further Notice of Proposed Rule Making*; OMB comments are due 60 days from date of publication of this *Fourth Further Notice of Proposed Rule Making* in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

### C. Ex Parte Rules -- Permit-But-Disclose Proceeding

29. This is a permit-but-disclose notice and comment rule making proceeding. Ex parte presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.<sup>100</sup>

### D. Comment Dates

30. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before 60 days from date of publication of this *Fourth Further Notice of Proposed Rule Making* in the Federal Register, and reply comments on or before 90 days from date of publication in the Federal Register.<sup>101</sup> Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>102</sup> Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit an electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message: "get form <your e-mail address.>" A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing.

31. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rule making number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rule making number. All filing must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, 445 Twelfth Street, S.W., TW-A306, Washington, D.C. 20554.

32. Written comments by the public on the proposed information collections are due 60 days from date of publication of this *Fourth Further Notice of Proposed Rule Making* in the Federal Register.

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<sup>100</sup> See 47 C.F.R. §§ 1.1202, 1.1203, 1.1206.

<sup>101</sup> 47 C.F.R. §§ 1.415, 1.419.

<sup>102</sup> See Electronic Filing of Documents in Rulemaking Proceedings, *Report and Order*, GC Docket No. 97-113, 13 FCC Rcd 11322 (1998).

Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before 60 days after date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 Twelfth Street, S.W., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov) and to Edward Springer, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, DC 20503 or via the Internet to [Edward.Springer@omb.eop.gov](mailto:Edward.Springer@omb.eop.gov).

33. Parties who choose to file by paper should also submit their comments on diskette. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with commenter's name, proceeding (including the lead docket number, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy – Not an Original." Each diskette should only contain the party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contact, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

#### **E. Ordering Clauses**

34. Authority for the issuance of this *Fourth Further Notice of Proposed Rule Making* is contained in Sections 4(i), 4(j), 7(a), 302, 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 157(a), 302, 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c).

35. Accordingly, IT IS ORDERED that NOTICE IS HEREBY GIVEN of the proposed regulatory changes described in the *Fourth Further Notice of Proposed Rule Making* and contained in Appendix B.

36. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Fourth Further Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### **F. Contact for Information**

37. For further information, contact Keith Fickner of the Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, at (202) 418-0680, TTY (202) 418-7233, or via e-mail to [kfickner@fcc.gov](mailto:kfickner@fcc.gov).

38. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426, TTY (202) 418-7365, or via e-mail to [bmillin@fcc.gov](mailto:bmillin@fcc.gov). This *Fourth Further Notice of Proposed Rule Making* can be downloaded at <http://www.fcc.gov/Wireless/Orders/2001/fcc01358.txt>.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas  
Secretary





## APPENDICES

## APPENDIX A – INITIAL REGULATORY FLEXIBILITY ANALYSIS

(for *Fourth Further Notice of Proposed Rule Making*)

As required by the RFA,<sup>1</sup> the Commission has prepared this present IRFA of the possible significant economic impact on small entities of the policies and rules proposed in the *Fourth Further Notice of Proposed Rule Making*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Fourth Further Notice of Proposed Rule Making* provided in paragraph 30 of the item. The Commission will send a copy of the *Fourth Further Notice of Proposed Rule Making*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. § 603(a). In addition, the *Fourth Further Notice of Proposed Rule Making* and IRFA (or summaries thereof) will be published in the Federal Register. See *id.*

**A. Need for, and Objectives of, the Proposed Rules:**

Our objective is to determine whether it is in the public interest, convenience, and necessity to provide VHF public coast stations with additional flexibility and to improve the stations' efficiency as well. These proposals include (1) allowing the Coast Guard and VHF public coast licensees to have the additional flexibility to choose non-offset, as well as offset, channel pairs when negotiating an agreement regarding the specification of two narrowband channel pairs that will be used by the Coast Guard for its Ports and Waterways Safety System, (2) establishing emission masks and designators that will accommodate the full range of data services that may be provided by VHF public coast licensees, (3) extending tariff forbearance to public coast licensees, and (4) allowing public coast stations to maintain station documents via electronic means.

**B. Legal Basis:**

Authority for issuance of this item is contained in Sections 4(i), 4(j), 7(a), 302, 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 157(a), 302, 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c).

**C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply:**

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.<sup>2</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>3</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>4</sup> A small business concern is

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>2</sup> 5 U.S.C. § 603(b)(3).

<sup>3</sup> 5 U.S.C. § 601(6).

<sup>4</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, (continued....)"

one which: (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 (SBA).<sup>5</sup>

The proposed rules would affect licensees using AMTS and high seas public coast spectrum. In the *Third Report and Order* in this proceeding, the Commission defined the term "small entity" specifically applicable to public coast station licensees as any entity employing less than 1,500 persons, based on the definition under the Small Business Administration rules applicable to radiotelephone service providers. See Amendment of the Commission's Rules Concerning Maritime Communications, *Third Report and Order and Memorandum Opinion and Order*, 13 FCC Rcd 19853, 19893 (1998) (citing 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4812, now NAICS Code 513322). Since the size data provided by the Small Business Administration does not enable us to make a meaningful estimate of the number of public coast station licensees that are small businesses, we have used the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. This document shows that 12 radiotelephone firms out of a total of 1,178 such firms which operated in 1992 had 1,000 or more employees. Thus, we estimate that no fewer than 1,166 small entities will be affected. Any entity that is capable of providing radiotelephone service is eligible to hold a public coast license. Therefore, we seek comment on the number of small entities that use VHF public coast spectrum and the number of small entities that are likely to apply for licenses under the various proposals described herein.

**D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements:**

This *Fourth Further Notice of Proposed Rule Making* neither proposes nor anticipates any additional reporting, recordkeeping or other compliance measures.

**E. Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered:**

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: (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.

The *Fourth Further Notice of Proposed Rule Making* solicits comment on a variety of alternatives set forth herein. For example, the Commission seeks comment on its proposal to relax for all entities, including small entities, the current license posting requirement in order to reduce the regulatory burden. The Commission also seeks to reduce the regulatory burden of all entities, including small entities, by permitting the maintenance of records via electronic means. It also seeks comment on the proposal of Maritel, Inc. that the Commission no longer require geographic licensees, including those that are small entities, to provide station identification. Any significant alternative presented in the comments will be considered.

(Continued from previous page) \_\_\_\_\_  
establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." 5 U.S.C. § 601(3).

<sup>5</sup> Small Business Act, 15 U.S.C. § 632 (1996).

**F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules:**

None.

**APPENDIX B - PROPOSED RULES**

Chapter I of Title 47 of the Code of Federal Regulations, Part 80 is proposed to be amended as follows:

**Part 80 - Stations in the Maritime Services**

1. The authority citation for Part 80 continues to read as follows:

**AUTHORITY:** Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.95(a) is amended to read as follows:

**§ 80.95 Message charges.**

(a) Except as specified in § 20.15(c) of this chapter with respect to commercial mobile radio service providers, charges must not be made for service of:

\* \* \* \* \*

3. Section 80.207 is amended by revising paragraph (d) to read as follows:

**§ 80.207 Classes of emission.**

\* \* \* \* \*

(d) The authorized classes of emission are as follows:

Types of stations	Classes of emission
<u>Ship Stations</u> <sup>1</sup>	
Radiotelegraphy:	
100-160 kHz.....	A1A
1. 405-525 kHz.....	A1A, J2A
1605-27500 kHz:	
2. Manual.....	A1A, J2A
3. DSC.....	F1B, J2B
4. NB-DP <sup>14</sup> .....	F1B, J2B
5. Facsimile.....	F1C, F3C, J2C, J3C
6. 156-162 MHz <sup>2</sup> .....	F1B, F2B, F2C, F3C, F1D, F2D
7. DSC.....	G2B
8. 216-220 MHz <sup>3</sup> .....	F1B, F2B, F2C, F3C
9. 1626.5-1646.5 MHz.....	( <sup>4</sup> )
Radiotelephony:	
10. 1605-27500 kHz <sup>5</sup> .....	H3E, J3E, R3E
11. 27.5-470 MHz <sup>6</sup> .....	G3D, G3E
12. 1626.5-1646.5 MHz.....	( <sup>4</sup> )

Radiodetermination:	
13. 285-325 kHz <sup>7</sup> .....	A1A, A2A
405-525 kHz (Direction Finding) <sup>8</sup>	A3N, H3N, J3N, NON
154-459 MHz <sup>12</sup> .....	
	A1D, A2D, F1D, F2D, G1D, G2D
2.4-9.5 GHz.....	PON
14.00-14.05 GHz.....	F3N
<u>Land Stations</u> <sup>1</sup>	
Radiotelegraphy:	
100-160 kHz.....	A1A
405-525 kHz.....	A1A, J2A
1605-2850 kHz:	
Manual.....	A1A, J2A
Facsimile.....	F1C, F3C, J2C, J3C
Alaska--Fixed.....	A1A, J2A
4000-27500 kHz:	
Manual.....	A1A, J2A
DSC.....	F1B, J2B
NB-DP <sup>14</sup> .....	F1B, J2B
Facsimile.....	F1C, F3C, J2C, J3C
Alaska--Fixed.....	A1A, A2A, F1B, F2B
72-76 MHz.....	A1A, A2A, F1B, F2B
156-162 MHz <sup>2, 15</sup> .....	F1B, F2B, F2C, F3C, F1D, F2D
DSC.....	G2B
216-220 MHz <sup>3</sup> .....	F1B, F2B, F2C, F3C
Radiotelephony:	
1605-27500 kHz.....	H3E, J3E, R3E
72-76 MHz.....	A3E, F3E, G3E
156-470 MHz.....	G3E
Radiodetermination:	
2.4-9.6 GHz.....	PON
Distress, Urgency and Safety <sup>8, 9</sup>	
500 kHz <sup>10</sup> .....	A2A and A2B or H2A and H2B
2182 kHz <sup>10, 11</sup> .....	A2B, A3B, H2B, H3E, J2B, and
	J3E
8364 kHz.....	A2A, H2A
121.500 MHz.....	A3E, A3X, N0N
123.100 MHz.....	A3E
156.750 and 156.800 MHz <sup>13</sup> ....	G3E, G3N
243.000 MHz.....	A3E, A3X, N0N
406.025 MHz.....	G1D

<sup>1</sup> Excludes distress, EPIRBs, survival craft, and automatic link establishment.

<sup>2</sup> Frequencies used for public correspondence and in Alaska 156.425 MHz. *See* §§ 80.371(c), 80.373(f) and 80.385(b). Transmitters approved before January 1, 1994, for G3E emissions will be authorized indefinitely for F2C, F3C, F1D and F2D emissions. Transmitters approved on or after January 1, 1994, will be authorized for F2C, F3C, F1D or F2D emissions only if they are approved specifically for each emission designator.

<sup>3</sup> Frequencies used in the Automated Maritime Telecommunications System (AMTS). *See* § 80.385(b).

<sup>4</sup> Types of emission are determined by the INMARSAT Organization.

<sup>5</sup> Transmitters approved prior to December 31, 1969, for emission H3E, J3E, and R3E and an authorized bandwidth of 3.5 kHz may continue to be operated. These transmitters will not be authorized in new installations.

<sup>6</sup> G3D emission must be used only by one-board stations for maneuvering or navigation.

<sup>7</sup> Frequencies used for cable repair operations. *See* § 80.375(b).

<sup>8</sup> For direction finding requirements see § 80.375.

<sup>9</sup> Includes distress emissions used by ship, coast, EPIRB's and survival craft stations.

<sup>10</sup> On 500 kHz and 2182 kHz A1B, A2B, H2B and J2B emissions indicate transmission of the auto alarm signals.

<sup>11</sup> Ships on domestic voyages must use J3E emission only.

<sup>12</sup> For frequencies 154.585 MHz, 159.480 MHz, 160.725 MHz, 160.785 MHz, 454.000 MHz and 459.000 MHz, authorized for offshore radiolocation and related telecommand operations.

<sup>13</sup> Class C EPIRB stations may not be used after February 1, 1999.

<sup>14</sup> NB-DP operations which are not in accordance with CCIR Recommendation 625 or 476 are permitted to utilize any modulation, so long as emissions are within the limits set forth in § 80.211(f).

<sup>15</sup> If a station uses another type of digital emission, it must comply with the emission mask requirements of § 90.210.

\* \* \* \* \*

4. Section 80.213 is amended by revising paragraph (d) to read as follows:

**§ 80.213 Modulation requirements.**

\* \* \* \* \*

(d) Ship and coast station transmitters operating in the 156-162 MHz and 216-220 bands must be capable of proper operation with a frequency deviation that does not exceed +/- 5 kHz when using any emission authorized by 80.207.

\* \* \* \* \*

5. Section 80.302(a) is amended to read as follows:

**§ 80.302 Notice of discontinuance, reduction, or impairment of service involving a distress watch.**

(a) When changes occur in the operation of a public coast station which include discontinuance, reduction, suspension, or relocation of a watch required to be maintained on 500 kHz, 2182 kHz, or 156.800 MHz, notification must be made by the licensee to the nearest district office of the U.S. Coast Guard as soon as practicable. The notification must include the estimated or known resumption time of the watch.

\* \* \* \* \*

6. Section 80.371 is amended by revising paragraphs (c)(1)(ii), (c)(1)(iii), and (c)(3) to read as follows:

**§ 80.371 Public correspondence frequencies.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \* \* \*

(ii) Service areas in the marine VHF 156-162 MHz band are VHF Public Coast Station Areas (VPCSAs). As listed in the table in this paragraph, VPCSAs are based on, and composed of one or more of, the U.S. Department of Commerce's 172 Economic Areas (EAs). *See* 60 FR 13114 (March 10, 1995). In addition, the Commission shall treat Guam and the Northern Mariana Islands, Puerto Rico and the United States Virgin Islands, American Samoa, and the Gulf of Mexico as EA-like areas, and has assigned them EA numbers 173-176, respectively. Maps of the EAs and VPCSAs are available for public inspection and copying at the FCC Public Reference Room, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554. Except as shown in the table, the frequency pairs listed in paragraph (c)(1)(i) of this section are available for assignment to a single licensee in each of the VPCSAs listed in the table in this paragraph. In addition to the listed EAs listed in the table in this paragraph, each VPCSA also includes the adjacent waters under the jurisdiction of the United States.

(iii) Subject to paragraph (c)(3) of this section, each licensee may also operate on 12.5 kHz offset frequencies in areas where the licensee is authorized on both frequencies adjacent to the offset frequency, and in areas where the licensee on the other side of the offset frequency consents to the licensee's use of the adjacent offset frequency. Coordination with Canada is required for offset operations under any circumstance in which operations on either adjoining 25 kHz channel would require such coordination. *See* § 80.57 of this part.

\* \* \* \* \*

(3) VPCSA licensees may not operate on Channel 228B (162.0125 MHz), which is available for use in the Coast Guard's Ports and Waterways Safety System (PAWSS). In addition, within six months of the conclusion of the competitive bidding procedures to determine the licensees in each VPCSA, the U.S. Coast Guard shall submit to each licensee of VPCSAs 1-9 a plan specifying up to two channel pairs for use in the PAWSS. The final selection of the PAWSS channel pairs can be negotiated (if the VPCSA licensee objects to the Coast Guard proposal, it shall make a counterproposal within three months) and established by an agreement between the parties. All parties are required to negotiate in good faith. If no agreement is reached within one year of the date the Coast Guard submitted its plan, the Coast Guard may petition the Commission to select up to two channel 12.5 kHz narrowband pairs offset from the channels set forth in the table in paragraph (c)(1)(i) of this section for use in the PAWSS. The Wireless Telecommunications Bureau shall announce the selection of the PAWSS channel pairs by Public Notice.

\* \* \* \* \*



7. Section 80.405 is amended by redesignating paragraph (c) as (c)(1) and adding new paragraph (c)(2) to read as follows:

**§ 80.405 Station license.**

\* \* \* \* \*

(c) *Posting.*

(1) The current station authorization for a station other than a public coast station, or a clearly legible copy, must be posted at the principal control point of each station. If a copy is posted, it must indicate the location of the original. When the station license cannot be posted as in the case of a marine utility station operating at temporary unspecified locations or the ship or recreational boat does not have an enclosed wheelhouse, it must be kept where it will be readily available for inspection. The licensee of a station on board a ship subject to Part II or III or Title III of the Communications Act or the Safety Convention must retain the most recently expired ship station license in the station records until the first Commission inspection after the expiration date.

(2) Public coast stations authorized under this part must make available either a clearly legible copy of the authorization for each station at the principal control point of the station or an address or location where the current authorization may be found and a telephone number of that authorization's representative.

\* \* \* \* \*

8. Section 80.409 is amended by revising paragraphs (b)(2) and (c) to read as follows:

**§ 80.409 Station logs.**

\* \* \* \* \*

(b) \* \* \*

(2) Logs containing entries required by paragraph (c) of this section must be kept either at the principal control point of the station or electronically filed at the station licensee's primary office or available to the Commission via secured access to the licensee's Internet web site. Logs containing entries required by paragraphs (e) and (f) of this section must be kept at the principal radiotelephone operating location while the vessel is being navigated. All entries in their original form must be retained on board the vessel for at least 30 days from the date of entry. Additionally, logs required by paragraph (f) of this section must be retained on board the vessel for a period of 2 years from the date of the last inspection of the ship radio station.

(c) *Public coast station logs.* Public coast stations must maintain a log, whether by means of written or automatic logging or a combination thereof. The log must contain the following information:

\* \* \* \* \*

9. Section 80.471 is amended to read as follows:

**§ 80.471 Discontinuance or impairment of service.**

Except as specified in § 20.15(b)(3) of this chapter with respect to commercial mobile radio service providers, a public coast station must not discontinue or impair service unless authorized to do so by the Commission.

\* \* \* \* \*