

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

In the Matter of)
Amendment of Parts 13 and 80 of the) WT Docket No. 00-48
Commission's Rules Concerning Maritime)
Communications)
Petition for Rule Making Filed by Globe Wireless,) RM-9499
Inc.)
Amendment of the Commission's Rules) PR Docket No. 92-257
Concerning Maritime Communications)

MEMORANDUM OPINION AND ORDER, THIRD REPORT AND ORDER,
AND THIRD FURTHER NOTICE OF PROPOSED RULE MAKING

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I. INTRODUCTION AND EXECUTIVE SUMMARY

1. With this *Memorandum Opinion and Order, Third Report and Order, and Third Further Notice of Proposed Rule Making*, we further the ongoing efforts of the Federal Communications Commission (FCC or Commission) to ensure that its Part 80 rules governing the Maritime Radio Services¹ continue to promote maritime safety, maximize effective and efficient use of the spectrum available for maritime communications, accommodate technological innovation, avoid unnecessary regulatory burdens, and maintain consistency with international maritime standards to the extent consistent with the United States public interest. We also seek in this proceeding to ensure that we regulate the Maritime Radio Services in a manner that advances our nation’s homeland security. In recent years, the Commission has addressed issues pertaining to the Maritime Radio Services primarily in two rulemaking proceedings: the WT Docket No. 00-48 proceeding initiated to develop rules for domestic implementation of the Global Maritime Distress and Safety System (GMDSS),² and the PR Docket No. 92-257 proceeding concerning VHF public coast (VPC) stations.³ We address here: (a) petitions for

¹ See 47 C.F.R. §§ 80.1 *et seq.*

² The GMDSS is a ship-to-shore and ship-to-ship distress communications system using satellite and digital selective calling (DSC) technology. See para. 5, *infra*, for additional background information. DSC is an internationally approved system for automatically contacting vessels on MF, HF and VHF frequencies. It allows mariners to instantly send an automatically formatted distress alert to the Coast Guard or other rescue authority anywhere in the world. DSC also allows mariners to initiate or receive distress, urgency, safety and routine radiotelephone calls to or from any similarly equipped vessel or shore station, without requiring either party to be near a radio loudspeaker. DSC acts like the dial and bell of a telephone, allowing users to “direct dial” and “ring” other maritime radio stations.

³ The VPC service was established to provide commercial mobile radio services (CMRS) in port and coastal areas, permitting ships to send and receive messages and to interconnect with the public switched telephone network.

reconsideration of the *Report and Order* in WT Docket No. 00-48;⁴ and (b) comments filed in response to the *Second Further Notice* in WT Docket No. 00-48. In addition, we adopt a *Third Further Notice of Proposed Rule Making* in WT Docket No. 00-48 (*Third Further Notice*) to request comment on additional issues concerning the Maritime Radio Service.⁵

2. Among the more significant actions we take in response to the petitions for reconsideration of the *Report and Order*,⁶ we

⁴ See Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications, *Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 00-48, 17 FCC Rcd 6741 (2002) (*Report and Order* and *Further Notice*, respectively). We note that a petition for reconsideration of the *Sixth Report and Order* in PR Docket No. 92-257, Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications, *Second Report and Order, Sixth Report and Order, and Second Further Notice of Proposed Rule Making*, WT Docket No. 00-48 and PR Docket No. 92-257, 19 FCC Rcd 3120 (2004) (*Second Report and Order, Sixth Report and Order* and *Second Further Notice*, respectively), was filed by MariTEL, Inc. (MariTEL). In the *Sixth Report and Order*, the Commission adopted rules for the certification of Automatic Identification System (AIS) equipment. See *Sixth Report and Order*, 19 FCC Rcd at 3155-56 ¶¶ 67; 47 C.F.R. §§ 80.275, 80.1101(c)(12). Acknowledging that significant issues concerning AIS were the subject of pending petitions filed by the National Telecommunications and Information Administration (NTIA) and by MariTEL, the Commission concluded that it was unnecessary to defer adoption of rules to govern certification of AIS equipment until those other AIS issues were resolved. See *Sixth Report and Order*, 19 FCC Rcd at 3154-55 ¶¶ 64, 67. MariTEL's Petition for Reconsideration argues that the Commission ignored information on the detrimental impact that certification of AIS equipment, under the rules adopted, would have on MariTEL, and that the rules effectively "delegate to international regulatory agencies a determination of whether AIS equipment should be approved for use in the United States." See MariTEL Petition for Reconsideration at 3 (filed Dec. 8, 2004), corrected by MariTEL Amendment to Petition for Reconsideration (filed April 12, 2005). These arguments are closely interrelated with the issues to be resolved in the WT Docket No. 04-344 *AIS Rulemaking Proceeding*. See Amendment of the Commission's Rules Regarding Maritime Automatic Identification Systems, *Memorandum Opinion and Order and Notice of Proposed Rule Making*, WT Docket No. 04-344, 19 FCC Rcd 20071 (2004) (*AIS NPRM*). The key issue in the *AIS Rulemaking Proceeding* is the identification of appropriate channels for domestic AIS use, and the crux of MariTEL's argument here is that the Commission should not certify AIS equipment that is designed to operate on a simplex basis on Channels 87B and 88B in accordance with the international AIS standards. Accordingly, MariTEL's Petition for Reconsideration of the *Sixth Report and Order* was addressed in the *AIS Rulemaking Proceeding*. We therefore terminate PR Docket No. 92-257.

⁵ Finally, we make a number of minor changes to our Part 80 rules to remove obsolete provisions, update terminology and cross-references, reflect statutory changes and previous regulatory decisions, or otherwise make them more streamlined and clearer, as explained in each case below. See, e.g., ¶¶ 22-23, 25, 53-67, *infra*. Because these changes do not affect the rights or obligations of any party subject to these rules, we believe that the public will not be interested in commenting and thus we find good cause to adopt these changes without notice and comment.

⁶ We received timely petitions for reconsideration of the *Report and Order* from Kurt Anderson, Owen Anderson, Ron Neuman (Neuman), the Radio Technical Commission for Maritime Services (RTCM), and the United States Coast Guard (USCG or Coast Guard). These petitions are addressed in the instant *Memorandum Opinion and Order* in WT Docket No. 00-48. We note that the Coast Guard petitioned for reconsideration of the decision not to add a definition of Automatic Identification Systems (AIS) to Section 80.5 of the Commission's rules, 47 C.F.R. § 80.5. Coast Guard Petition for Reconsideration at 1-2. We will add the Coast Guard's petition to the record of the *AIS Rulemaking Proceeding*, where similarly the Commission has proposed to adopt a definition of AIS. See *AIS NPRM*, 19 FCC Rcd at 20117. We also take no action in response to Kurt Anderson's and Owen Anderson's suggestions that all of the Commission's rules governing GMDSS should be grouped together in Subpart W, obviating any need to cross-reference any rules outside Subpart W. See Kurt Anderson Petition for Reconsideration at 1; Owen Anderson Petition for Reconsideration at 3. These recommendations do not pertain to any particular decision adopted in the *Report and Order*, and the petitioners do not identify particular rules to be added to Subpart W. With respect to this issue, we find these petitions for reconsideration to be deficient. See 47 C.F.R. § 1.106(d)(1) (stating that a petition for reconsideration "shall state with particularity the respects in which petitioner

(continued...)

- clarify that applicants for a GMDSS Radio Operator's License do not have to take an Element 1 examination if they have received a Proof of Passing Certificate (PPC) based on completion of a Coast Guard-approved training course;
- clarify the requirement of ship radio station operators to relay distress alerts from other ships that are not promptly acknowledged by a coast station;
- remove the sunset date for the Channel 16 watch requirement;
- relieve vessels that have upgraded to MF-DSC equipment of the requirement to maintain a watch on the frequency 2182 kHz;
- modify the requirements for station logs; and
- permit routine calling on DSC frequencies.

3. Among the more significant actions we take based on the comments and reply comments filed in response to the *Second Further Notice*,⁷ we

- require, after prescribed transition periods, that DSC equipment comply with the more rigorous technical standards recently established for such equipment by international bodies;
- add the INMARSAT Fleet F77 ship earth station to the list of satellite earth stations that may be used in lieu of single sideband (SSB) radios by ships operating more than one hundred nautical miles from shore;
- mandate that additional classes of small passenger vessels carry a reserve power source to better ensure against loss of communications capabilities during distress situations;
- extend the license term for GMDSS Radio Operator's Licenses, Restricted GMDSS Radio Operator's Licenses, GMDSS Radio Maintainer's Licenses, GMDSS Operator/Maintainer Licenses, and Marine Radio Operator Permits to the lifetime of the holder;
- relax certain rules to give both the Commission and commercial operator license examination (COLE) managers additional flexibility in administering the license examination process;
- adopt rules to regulate Ship Security Alert System (SSAS) beacons designed to operate with the COSPAS-SARSAT satellite system, and to authorize use of Inmarsat D+ equipment as an additional accommodation of SSAS operations; and
- permit the programming of channels in maritime radio transmitters through remote control.

(...continued from previous page)

believes the action taken by the Commission ... should be changed ... and shall state specifically the form or relief sought..."). However, in light of the desirability of providing mariners on GMDSS-participating vessels with a comprehensive and clear source of information on the Commission's GMDSS requirements, we expect the Wireless Telecommunications Bureau, in consultation with the Coast Guard, to develop such materials and to post them on the Commission's web site.

⁷ See Appendix A, *infra*, for a list of parties filing comments or reply comments in response to the *Second Further Notice*. These comments and reply comments are addressed in the instant *Third Report and Order* in WT Docket No. 00-48.

4. In the *Third Further Notice*, we:
- propose to cease authorizing INMARSAT-E emergency position indicating radiobeacons (EPIRBs) due to Inmarsat's planned cessation of service to such EPIRBs;
 - request comment on whether to require Global Positioning System (GPS) capability in VHF-DSC handheld units;
 - request comment on whether to require the carriage of at least one VHF handheld marine radio transceiver on all small passenger vessels that do not have a reserve power supply;
 - request comment on whether there is a need to make additional spectrum available for ship station facsimile communications, or to permit the transmission of data on VHF maritime voice channels;
 - request comment on whether there is any need to continue limiting the number of frequencies that may be assigned to any particular private coast station;
 - request comment on updating the standards for ship radar equipment; and
 - propose to add a rule clarifying that GMDSS vessels subject to Subpart W are required to test GMDSS radiotelephone equipment on a daily basis.

II. BACKGROUND

5. On January 16, 1992, the Commission first adopted rules to implement the GMDSS in the United States, requiring the installation of GMDSS equipment on domestic vessels by February 1, 1999.⁸ The Commission's GMDSS rules were based on amendments to the Convention for the Safety of Life at Sea (SOLAS Convention) that had been adopted by the International Maritime Organization (IMO)⁹ in 1988 to implement the GMDSS worldwide.¹⁰ Those amendments required "compulsory ships" under SOLAS, *i.e.*, all passenger ships that carry more than twelve passengers and all cargo ships of 300 gross tons and over conducting international voyages, to carry GMDSS equipment pursuant to a phased schedule beginning on February 1, 1992 and ending on February 1, 1999.¹¹ Vessels for which the carriage of GMDSS equipment is not mandated under SOLAS are termed "voluntary ships."¹² Over the

⁸ See Amendment of Parts 13 and 80 of the Commission's Rules to Implement the Global Maritime Distress and Safety System (GMDSS) to Improve the Safety of Life at Sea, *Report and Order*, PR Docket No. 90-480, 7 FCC Rcd 951 (1992). The GMDSS is a "worldwide coordinated maritime distress system designed to provide the rapid transfer of distress messages from vessels in distress to units best suited for giving or coordinating assistance. The system includes standardized equipment and operational procedures, unique identifiers for each station, and the integrated use of frequency bands and radio systems to ensure the transmission and reception of distress and safety calls and messages at short, medium and long ranges." See 47 C.F.R. § 80.5.

⁹ The IMO is an agency of the United Nations that specifies regulations for the maritime service, such as equipment carriage requirements for certain classes of ships.

¹⁰ See Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1977: Articles, Annexes and Certificates, Incorporating All Amendments in Effect from 1 July 1997, International Maritime Organization, London, 1997. The primary objective of the SOLAS Convention is to specify minimum standards for the construction, equipment, and operation of ships, compatible with their safety. Earlier versions of the SOLAS Convention were adopted in 1914, 1929, 1948, and 1960.

¹¹ *Id.*

¹² See 47 C.F.R. § 80.5, *Categories of ships* (defining a voluntary ship as "[a]ny ship which is not required by treaty or statute to be equipped with radiotelecommunication equipment").

years, the IMO, the International Telecommunication Union (ITU),¹³ the International Electro-technical Commission (IEC),¹⁴ and the International Standards Organization (ISO)¹⁵ have revised the international standards for GMDSS equipment.

6. With the primary goal of ensuring that the GMDSS rules in Part 80 are consistent, to the extent feasible and appropriate, with the most up-to-date international standards, the Commission initiated the WT Docket No. 00-48 proceeding with the release of a *Notice of Proposed Rule Making* on March 17, 2000.¹⁶ The Commission also proposed to delete or modify rules affected by full implementation of GMDSS or that had otherwise become unnecessary or in need of clarification due to changed circumstances, while inviting interested parties to propose other changes to Part 80.¹⁷ On April 9, 2002, the Commission released the *Report and Order*, in which it consolidated, revised and streamlined the Part 80 rules.¹⁸ In addition to adopting the *Report and Order*, the Commission adopted the *Further Notice*, soliciting comment on the desirability of further amending Part 80 to better reflect the state of GMDSS implementation and other developments.¹⁹ In the instant *Memorandum Opinion and Order*, we address petitions for reconsideration of the *Report and Order*.²⁰

7. The Commission resolved the issues raised in the *Further Notice* in the *Second Report and Order*, released February 12, 2004, which further updated and streamlined Part 80.²¹ The *Second*

¹³ The ITU is a United Nations agency responsible for the global oversight and implementation of international telecommunications policy. The ITU derives its authority from a multilateral treaty to which the United States is a party.

¹⁴ The IEC is a global organization that prepares and publishes international standards for all electrical, electronic and related technologies. Its membership consists of more than sixty participating countries, including all of the world's major trading nations and a growing number of industrializing countries. The IEC works closely with SOLAS organizations in developing standards for GMDSS equipment. See, e.g., ITU-R Resolution 41, "Collaboration with the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC)" 1997. The IEC standards pertaining to GMDSS generally are encompassed by IEC Publication number 61097.

¹⁵ The ISO is a worldwide federation of national standards bodies. The United States is represented through the American National Standards Institute (ANSI). The mission of the ISO is to promote the development of standardization and related activities in the world with the aim of facilitating the international exchange of goods and services, and of developing cooperation in the spheres of intellectual, scientific, technological and economic activity.

¹⁶ 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 (2000) (*GMDSS NPRM*).

¹⁷ *Id.* at 5944 ¶ 2, 5951 ¶ 17.

¹⁸ See *Report and Order*, 17 FCC Rcd at 6744 ¶ 2, for a summary of the significant actions taken in the *Report and Order*.

¹⁹ See *Further Notice*, 17 FCC Rcd at 6781 ¶ 108, for a summary of the matters on which comment was requested in the *Further Notice*.

²⁰ The Commission did not address the petitions for reconsideration of the *Report and Order* at the same time it adopted the *Second Report and Order* because the record on the issues discussed in the *Further Notice*, and resolved in the *Second Report and Order*, was finalized well before petitions for reconsideration of the *Report and Order* could be filed. This occurred because the *Further Notice* was published in the Federal Register well before the *Report and Order*. Compare 67 Fed. Reg. 35086 (May 17, 2002) (*Further Notice*) with 68 Fed. Reg. 46957 (Aug. 7, 2003) (*Report and Order*).

²¹ See *Second Report and Order*, 19 FCC Rcd at 3122 ¶ 2, for a summary of the significant actions taken in the *Second Report and Order*.

Report and Order was accompanied by the *Second Further Notice*.²² In the instant *Third Report and Order*, we address the comments filed in response to the *Second Further Notice*. In addition, many of the comments filed in response to the *Second Further Notice*, as well as other developments that have occurred subsequent to the adoption of the *Second Report and Order* and *Second Further Notice*, indicate that there may be a need to further amend the Part 80 rules to ensure that they continue to serve the public interest. Accordingly, the instant *Third Further Notice of Proposed Rule Making* solicits comment on possible additional changes to Part 80.

III. MEMORANDUM OPINION AND ORDER

A. Commercial Operator Licenses – Proof of Passing U.S. Coast Guard Training

8. *Background.* In the *Report and Order*, the Commission amended Section 13.201 of its Rules²³ to provide that an applicant for a GMDSS Radio Operator's License or Restricted GMDSS Radio Operator's License could qualify for such license by acquiring a PPC issued by the Coast Guard or its designee certifying the applicant's competence following completion of a Coast Guard-approved GMDSS training course.²⁴ Prior to this rule change, applicants for a GMDSS Radio Operator's License could demonstrate their qualifications for the license only by passing a COLE Manager-administered²⁵ written examination covering examination Elements 1 and 7.²⁶ Observing that the Coast Guard's seventy-hour GMDSS training courses cover basically the same material and similar questions as the FCC examination, the Commission reasoned that accepting a PPC from the Coast Guard or its designee "will relieve the burden that the duplication of examination puts on applicants and will avoid the unnecessary administration of examinations."²⁷

9. *Discussion.* Owen Anderson suggests that Section 13.201, as amended in the *Report and Order*, is unclear because it does not appear to authorize Coast Guard-approved training organizations to administer Element 1 examinations.²⁸ We hereby clarify that the rule does not authorize Coast Guard-approved training organizations to administer Element 1 examinations, because the rule reflects the Commission's intent that applicants for one of the GMDSS Operator's Licenses who have secured a PPC from the Coast Guard or a Coast Guard-approved training organization do not have to pass an Element 1 examination or an Element 7/7R examination. The Coast Guard training courses include training in the

²² See *Second Further Notice*, 19 FCC Rcd at 3123-24 ¶ 4 for a summary of the matters on which comment was requested in the *Second Further Notice*.

²³ 47 C.F.R. § 13.201.

²⁴ See *Report and Order*, 17 FCC Rcd at 6749-50 ¶¶ 14-15.

²⁵ COLE Managers, or COLEMs, are private sector entities that have been certified by the Commission to administer and grade commercial operator license examinations pursuant to a Memorandum of Agreement with the Commission. See 47 C.F.R. §§ 13.3(a), 13.213.

²⁶ See 47 C.F.R. §§ 13.201-13.203 (2001). Element 7 questions are GMDSS-specific, 47 C.F.R. § 13.201(a)(5), while Element 1 questions cover "[b]asic radio law and operating practice with which every maritime operator should be familiar." 47 C.F.R. § 13.203(a)(1). In the *Report and Order*, the Commission established the Restricted GMDSS Radio Operator's License, competency for which may be demonstrated by passing a COLE Manager-administered examination of new Element 7R instead of Element 7, as well as Element 1. See *Report and Order*, 17 FCC Rcd at 6749 ¶ 13; 47 C.F.R. §§ 13.201(b)(7), 13.203(a)(6).

²⁷ See *Report and Order*, 17 FCC Rcd at 6750 ¶ 15.

²⁸ Owen Anderson Petition for Reconsideration at 1. The amended rule provides that an applicant for a GMDSS Radio Operator's License "must pass, or otherwise receive credit for ... Written Elements 1 and 7 [7R in the case of an applicant for a Restricted GMDSS Radio Operator License], or a Proof of Passing Certificate (PPC) issued by the United States Coast Guard or its designee representing a certificate of competency from a Coast Guard-approved training course for a GMDSS endorsement." 47 C.F.R. § 13.201(b), (b)(6).

subject matter areas covered by an Element 1 examination, and we believe the successful completion of a Coast Guard-approved training course, certified through issuance of a PPC to the applicant, is sufficient in itself to demonstrate the applicant's qualifications to hold a GMDSS Radio Operator's License (or, as the case may be, a Restricted GMDSS Radio Operator's License). Accordingly, we believe requiring such an applicant to also take an Element 1 examination would run counter to the stated purpose of relieving applicants of the burden of taking duplicative and unnecessary examinations.²⁹

B. GMDSS Distress Call Monitoring and Acknowledgement

10. *Background.* In the *Report and Order*, the Commission updated the Part 80 rules pertaining to the monitoring, acknowledgement and relay of distress calls so that they generally mirror the relevant IMO and ITU recommendations and standards.³⁰ Among other things, the Commission revised Section 80.1117 of the Rules to specify that DSC distress calls typically are to be acknowledged only by a coast station using a DSC acknowledgment, but if a monitoring ship does not hear any such coast station acknowledgement of the distress call, "the ship should transmit a distress alert relay to the coast station."³¹ The Commission also amended Section 80.1121 of the Rules to prescribe the procedures for ship stations to acknowledge a non-DSC distress alert by radiotelephony, to inform the appropriate coast station and Rescue Coordination Center (RCC), and, in certain circumstances, to transmit an "all ships" relay of the distress alert.³²

11. *Discussion.* Kurt Anderson requests reconsideration of the amendments to Sections 80.1117 and 80.1121, contending that the amended rules could be interpreted to require that distress alert relays be transmitted via DSC.³³ According to Kurt Anderson, these rules should be revised further to make it abundantly clear that the required distress alert relays are to be transmitted via a non-DSC method.³⁴ We disagree. To begin with, the rules do not even suggest that distress alerts have to be relayed via DSC. Section 80.1117(a), for example, simply states that "[i]n cases where no acknowledgement [of a DSC distress call] has been heard and no distress traffic has been heard, the ship should transmit a distress alert relay to the coast station."³⁵ Since the first sentence of that rule explicitly refers to "distress calls using digital selective calling" and to "a DSC acknowledgement," we believe that the absence of a similar "DSC" qualifier in the subsequent reference to the distress alert *relay* indicates that there is no requirement to use DSC in relaying the distress alert.³⁶ More importantly, we disagree that the rules should flatly *prohibit* the use of DSC to relay unacknowledged distress calls. The

²⁹ Although applicants who have received PPCs based on completion of Coast Guard-approved training do not need to take a COLE Manager-administered examination, it remains that such applicants must submit their applications to the Commission via a COLE Manager. The Part 13 rules still require that applications either be filed manually with an original PPC from a COLE Manager or batch-filed electronically by a COLE Manager. See 47 C.F.R. §§ 13.9(c), 13.13(c). We believe this requirement provides an important safeguard to ensure that licenses are issued only on the basis of authentic PPCs.

³⁰ See *Report and Order*, 17 FCC Rcd at 6751-52 ¶¶ 19-20.

³¹ See 47 C.F.R. § 80.1117(a).

³² See 47 C.F.R. § 80.1121(b)-(d).

³³ Kurt Anderson Petition for Reconsideration at 6-7.

³⁴ *Id.* at 7. To this end, Kurt Anderson suggests that the rules be amended to expressly state that distress alert relays shall use any of a specified list of non-DSC technologies – e.g., VHF/HF radiotelephony, narrow-band direct-printing (NBDP), Inmarsat voice/telex – or "any method other than DSC." *Id.* at 6.

³⁵ See 47 C.F.R. § 80.1117(a).

³⁶ Section 80.1121 likewise does not use the term "DSC" in describing the distress alert relays required by that rule. The term is used only in Section 80.1121(d), to describe a DSC *acknowledgement*. See 47 C.F.R. § 80.1121(d).

international *Radio Regulations* permit DSC relays,³⁷ and we see no reason for the Part 80 rules to diverge from the international standards on this point.³⁸ In sum, we believe that Sections 80.1117 and 80.1121, as currently written, clearly and properly neither mandate nor prohibit the use of DSC in relaying distress alerts.

C. Channel 16 Watch Requirement

1. Compulsory Vessels

12. *Background.* Sections 80.148, 80.305 and 80.1123 of the Commission's Rules require compulsory ships at sea to maintain a continuous watch on maritime VHF Channel 16 (156.800 MHz).³⁹ Each of the rules includes a sunset date, *i.e.*, a date on which the Channel 16 watch requirement would terminate by its own terms. In the *Report and Order*, the Commission extended that sunset date from February 1, 1999 to February 1, 2005, in keeping with the extension of the requirement under the SOLAS Convention.⁴⁰ The Commission reasoned that extending the Channel 16 watch requirement until 2005 would enhance maritime safety and would serve the goal of fostering consistency between the Part 80 rules and international requirements.⁴¹ However, the Commission rejected a suggestion by the National GMDSS Implementation Task Force (Task Force) that the sunset date be extended until one year after the Coast Guard declares Sea Area A1 operational, or until February 1, 2005, whichever is later.⁴² The Commission explained that it would be premature to presume that the IMO would extend the watch date beyond February 1, 2005, and that extending the date beyond February 1, 2005 in the Part 80 rules would therefore be inconsistent with international standards. The Commission added, however, that it would "revisit this issue if the IMO extends the watch date."⁴³

13. *Discussion.* Subsequent to the adoption of the *Report and Order*, the IMO, at its 75th session, amended the SOLAS Convention to extend the Channel 16 watch date indefinitely.⁴⁴ The Coast

³⁷ See ITU-R Recommendation M.493-11, "Digital Selective-Calling System for Use in the Maritime Mobile Service," with Annexes 1 and 2, Table 4.3 (2004) (ITU-R M.493-11); ITU-R Recommendation M.541-9, "Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service," with Annexes, Annex 1 § 3.4, Annex 3 § 1.4 (2004) (ITU-R M.541-9).

³⁸ To the extent that Kurt Anderson is concerned that permitting DSC relays of DSC distress alert calls would exacerbate the problems stemming from false DSC alerts, we note that § 80.1117 does not authorize transmission of an "all ships" DSC distress alert relay, but only a relay to the coast station. Section 80.1121 permits "all ships" relays only when the relaying ship "has knowledge that another ship in distress is not itself able to transmit the distress alert, and the Master of the ship considers that further help is necessary." See 47 C.F.R. § 80.1121(b)-(c).

³⁹ See 47 C.F.R. §§ 80.148, 80.305(a)(3), 80.1123(c).

⁴⁰ See *Report and Order*, 17 FCC Rcd at 6753 ¶ 26.

⁴¹ *Id.* The Commission observed that many vessels operating within Sea Area A1 are not equipped with GMDSS equipment and are still operating with VHF radios using the Channel 16 watch. The Commission therefore concluded that "extension of the Channel 16 watch date will result in GMDSS vessels maintaining the ability to intercept safety and distress calls from vessels operating under the older system, while allowing voluntary ships sufficient time to fit DSC radios." *Id.* For a definition of Sea Area A1 (and Sea Areas A2, A3, and A4), see 47 C.F.R. § 80.1069.

⁴² See *Report and Order*, 17 FCC Rcd at 6753-54 ¶ 27.

⁴³ *Id.* at 6754 n.64.

⁴⁴ See IMO Resolution MSC.131(75), "Maintenance of a Continuous Listening Watch on VHF Channel 16 by SOLAS Ships Whilst at Sea After 1 February 1999 and Installation of VHF DSC Facilities on Non-SOLAS Ships," para. 2.4. (adopted May 21, 2002).

Guard requests that the Commission revise the Part 80 rules accordingly.⁴⁵ We agree with the Coast Guard that we should now remove the 2005 sunset date from Sections 80.148, 80.305 and 80.1123 in the interest of maritime safety and conformity with international watch requirements.

2. Voluntary Vessels

14. The Channel 16 watch requirements for voluntary vessels are contained in Sections 80.310 and 80.1153 of the Commission's Rules.⁴⁶ In the *Report and Order*, the Commission amended Section 80.310 to require voluntary vessels not fitted with DSC to maintain a watch on Channel 16 when the vessel is underway and the radio is not being used to communicate.⁴⁷ However, the Commission inadvertently failed to amend Section 80.1153, which still requires only that a Channel 16 watch be maintained when the ship radio station is being operated.⁴⁸ Since the *Report and Order* clearly reflects a Commission intent that voluntary vessels maintain a Channel 16 watch whenever the vessel is underway (except when the radio is otherwise being used to communicate) and not just when the radio is being operated,⁴⁹ we take this opportunity to amend Section 80.1153 to reflect that intent, conforming it to Section 80.310 and rectifying the earlier omission.⁵⁰

D. 2182 kHz Watch Requirement

15. *Background.* The requirement that vessels maintain a watch on the radiotelephone distress frequency 2182 kHz is reflected in several Part 80 rules, principally Sections 80.305 and 80.1123.⁵¹ Prior to the *Report and Order*, Section 80.1123(d) contained a sunset date for the 2182 kHz watch, so that by its own terms the Section 80.1123(d) watch requirement was in effect only until February 1, 1999.⁵² In the *Report and Order*, the Commission concluded that it should still require both voluntary and compulsory vessels to maintain a 2182 kHz watch.⁵³ The Commission stated, "Inasmuch as 2182 kHz is still used by non-compulsory ships, and by small passenger and fishing vessels currently operating under exemptions from our GMDSS rules, we are concerned that according compulsory vessels the discretion to forego such a watch would result in the inability of non-compulsory and exempt vessels to contact compulsory vessels in distress situations."⁵⁴

16. *Discussion.* Owen Anderson petitions for reconsideration of the decision to continue to require compulsory vessels to maintain 2182 kHz watches.⁵⁵ We agree that reconsideration is warranted,

⁴⁵ USCG Petition for Reconsideration at 1. Although the Coast Guard only requests that we amend Sections 80.305(a)(3) and 80.1123, we must also address this issue with respect to Section 80.148.

⁴⁶ See 47 C.F.R. §§ 80.310, 80.1153(b).

⁴⁷ See *Report and Order*, 17 FCC Rcd at 6755 ¶ 32. Prior to this amendment, Section 80.310 required such vessels to maintain the Channel 16 watch only when the radio is operating. See 47 C.F.R. § 80.310 (2001).

⁴⁸ See 47 C.F.R. § 80.1153(b).

⁴⁹ See *Report and Order*, 17 FCC Rcd at 6755 ¶ 32.

⁵⁰ As an additional non-substantive measure, we also amend Section 80.1153 to remove the cross-reference to Section 80.146. The *Report and Order* removed and reserved Section 80.146. See *Report and Order*, 17 FCC Rcd at 6760 ¶ 45.

⁵¹ See 47 C.F.R. §§ 80.305(a)(2), (b)(1), 80.1123(d).

⁵² See 47 C.F.R. § 80.1123(d) (2001).

⁵³ See *Report and Order*, 17 FCC Rcd at 6755 ¶ 30.

⁵⁴ *Id.*

⁵⁵ Owen Anderson Petition for Reconsideration at 3. According to Owen Anderson, "[t]here is enough distraction by the requirement to monitor [Channel 16] without compounding the confusion by adding 2182." *Id.*

at least to the extent of eliminating the 2182 kHz watch requirement for those vessels that have upgraded to MF-DSC, and eliminating for all vessels any requirement to carry a 2182 kHz watch receiver. Compulsory vessels that have upgraded to MF-DSC now maintain watches on Channel 16 and on 2187.5 kHz,⁵⁶ and many, perhaps most, of these vessels have already removed their 2182 kHz watch receivers in reasonable reliance on the February 1, 1999 sunset date that had appeared in Section 80.1123(d).⁵⁷ We believe, on balance, that it would be unduly onerous to require these vessels to reinstall and maintain 2182 kHz watch receivers, even if they could be readily acquired, especially since compulsory vessel watches on 2182 kHz are not viewed as essential to maritime safety by either the Coast Guard⁵⁸ or the GMDSS Task Force.⁵⁹ We also note that the SOLAS Convention does not require GMDSS vessels that have upgraded to MF-DSC to maintain a 2182 kHz watch. In addition, there is no Part 80 requirement that non-compulsory vessels voluntarily fitted with MF-DSC equipment maintain a 2182 kHz watch,⁶⁰ and the record does not support treating compulsory vessels differently from non-compulsory vessels for this purpose. We therefore relieve all vessels of the requirement to carry a 2182 kHz watch receiver, and we relieve MF-DSC-equipped compulsory vessels of the requirement to maintain a 2182 kHz watch.

17. On the other hand, we do not read Owen Anderson's petition for reconsideration as requesting, nor are we otherwise persuaded, that we should relieve voluntary vessels or compulsory vessels that have not upgraded to MF-DSC⁶¹ from the requirement to maintain a 2182 kHz watch. We continue to believe that a mandatory 2182 kHz watch for such vessels could provide significant maritime safety benefits with little countervailing burden. For example, such a vessel may be in the best position to respond to another nearby vessel's distress transmission and assist in alerting search and rescue personnel. That vessel would be more likely to receive and respond to a 2182 kHz distress message if it maintains a watch on the channel. Accordingly, we retain a 2182 kHz watch requirement for non-MF-DSC-equipped vessels that are fitted with an SSB radiotelephone. Such vessels will be required to maintain the 2182 kHz watch whenever the vessel is underway and the radio is not being used to communicate.⁶² Although we do not relieve these vessels of the 2182 kHz watch requirement, we are no longer requiring that any vessel carry a 2182 kHz watch receiver. We believe that retaining such a carriage requirement would be unduly onerous, given that 2182 kHz watch receivers do not appear to be readily available in the market

⁵⁶ See 47 C.F.R. § 80.1123(a)(2), (c).

⁵⁷ The *Report and Order* was not adopted until March 27, 2002, more than three years after the previous Section 80.1123(d) requirement had sunset in February 1999.

⁵⁸ In its comments to the *GMDSS NPRM*, the Coast Guard said it does not consider a watch on 2182 kHz of much practical benefit, as it has observed a continuing decline in its use. See *Report and Order*, 17 FCC Rcd at 6755 ¶ 29 (citing USCG Comments [to the *GMDSS NPRM*] at 7).

⁵⁹ In its comments to the *GMDSS NPRM*, the Task Force asserted that mandatory watches on 2182 kHz are unnecessary for vessels that have upgraded to MF-DSC. See *Report and Order*, 17 FCC Rcd at 6754 ¶ 29 (citing Task Force Comments [to the *GMDSS NPRM*] at 7).

⁶⁰ See 47 C.F.R. § 80.310 (specifying that voluntary vessels equipped with MF-HF DSC equipment must, *inter alia*, have the radio turned on and set to an appropriate DSC distress calling channel or one of the radiotelephone distress channels [such as Channel 16] whenever the vessel is underway and the radio is not being used to communicate).

⁶¹ Fishing vessels that are otherwise subject to the SOLAS GMDSS requirements have received a limited, temporary waiver of the requirement to carry VHF-DSC (in Sea Area A1) and MF-DSC (in Sea Area A2) equipment. See Waiver of Certain Global Maritime Distress and Safety System (GMDSS) Rules Applicable to Fishing Vessels and Small Passenger Vessels, *Order*, 14 FCC Rcd 528, 534 ¶ 11 (1998); *Report and Order*, 17 FCC Rcd at 6745-48 ¶¶ 5-11. These fishing vessels are currently required to maintain a 2182 kHz watch and, absent an intervening rule change, will remain subject to that watch requirement until such time as they are fitted with MF-DSC equipment.

⁶² To implement our decisions herein pertaining to the 2182 kHz watch, we amend Sections 80.223, 80.268, 80.269 (removed in its entirety), 80.305, 80.310, 80.858, 80.913, and 80.1123, and we add new Section 80.882 to Subpart R. See 47 C.F.R. §§ 80.223, 80.268, 80.269, 80.305, 80.310, 80.858, 80.882, 80.913, and 80.1123.

and are not essential to maintenance of an effective 2182 kHz watch.

E. Station Logs

18. *Background.* In the *Report and Order*, the Commission amended Section 80.409(e) of its rules, which sets forth the requirements for ship radiotelephone logs on compulsory vessels.⁶³ Prior to adoption of the *Report and Order*, Section 80.409(e)(1) had required that the logs of ships compulsorily equipped with radiotelephones contain a summary of all distress, urgency and safety traffic.⁶⁴ The Commission determined in the *Report and Order* to relax this log-keeping requirement with respect to urgency communications, so that log entries would be required for only those urgency communications affecting the station's own ship.⁶⁵ The Commission declined Owen Anderson's recommendation that the logging requirement for distress communications be relaxed in the same way as the logging requirement for urgency communications, in order to further relieve the log-keeping burden on the Bridge Officer.⁶⁶ The Commission concluded that, as revised, Section 80.409(e)(1) would not impose a burden on the Bridge Officer "that is unreasonable in light of the benefits to be derived from the log-keeping requirement."⁶⁷ In addition, the Commission revised Section 80.409(e)(5)⁶⁸ to require a weekly entry in radiotelephone logs that (1) the proper functioning of DSC equipment has been verified by actual communications or a test call, (2) the batteries or other reserve power sources are functioning properly, (3) the portable survival craft radio gear and radar transponders have been tested, and (4) the EPIRBs have been inspected.⁶⁹ Finally, the Commission declined to amend Section 80.409(a)⁷⁰ to expressly authorize the electronic maintenance of logs, as Owen Anderson had urged it to do, because the rules do not preclude electronic logs.⁷¹

19. *Discussion.* Upon reconsideration, we agree with Kurt Anderson and Owen Anderson that the log-keeping requirement should be further relaxed with respect to the logging of distress communications.⁷² We believe that a requirement to log all distress communications received imposes a burden, given that much GMDSS distress traffic consists of false alerts or distress communications from vessels located at great distance from the receiving vessel. The Bridge Officer on a compulsory vessel

⁶³ See 47 C.F.R. § 80.409(e).

⁶⁴ See 47 C.F.R. § 80.409(e)(1) (2001). Pursuant to IMO Resolution A.888(21), there are four levels of priority in the GMDSS. In descending order, these four priority levels are (1) distress, (2) urgency, (3) safety, and (4) other routine communications. See IMO Assembly Resolution A.888(21), "Criteria for the Provision of Mobile Satellite Communication Systems in the Global Maritime Distress and Safety System (GMDSS)," with Annex, adopted 25 November 1999. Distress traffic consists of messages relating to the immediate assistance required by the mobile station in distress. See 47 C.F.R. § 80.325(a). Urgency traffic consists of messages, transmitted under authority of the master or person responsible for the mobile station, concerning the safety of a ship, aircraft, or other vehicle, or the safety of a person. See 47 C.F.R. § 80.327(a). Safety traffic consists of messages concerning the safety of navigation or giving important meteorological warnings. See 47 C.F.R. §§ 80.329(a), 80.330(c).

⁶⁵ See *Report and Order*, 17 FCC Rcd at 6762 ¶¶ 48-49.

⁶⁶ *Id.* at 6762 ¶ 49.

⁶⁷ *Id.* The Commission noted in this regard that there is no requirement that the Bridge Officer make log entries of intercepted distress communications in a book that is separate from the GMDSS log. *Id.*

⁶⁸ See 47 C.F.R. § 80.409(e)(5).

⁶⁹ *Id.* at 6762 ¶¶ 48-49.

⁷⁰ See 47 C.F.R. § 80.409(a).

⁷¹ See *Report and Order*, 17 FCC Rcd at 6771 ¶ 78.

⁷² See Kurt Anderson Petition for Reconsideration at 1-2; Owen Anderson Petition for Reconsideration at 1-2. We leave unchanged the log-keeping requirement with respect to urgency communications.

has many duties that are critical to the safe operation and navigation of the vessel, and it would not serve the public interest in maritime safety to maintain a log-keeping burden on the Bridge Officer that is not commensurate with the benefit to be derived from the logged information.⁷³ Although we believe that it remains critical to have log entries for distress communications pertaining to the station's own ship, we agree with the petitioners that other information in the log is of lesser value.⁷⁴ We therefore amend Section 80.409(e)(1) to require the logging of only (a) distress communications that involve the station's own ship; (b) distress call acknowledgements and other communications from search and rescue authorities; and (c) distress alerts relayed by the station's own ship.⁷⁵

20. Kurt Anderson and Owen Anderson also urge additional modifications to the Section 80.409(e) logging and equipment testing requirements, generally in order to provide more detailed guidance to ship station licensees, but in some cases recommending substantive changes.⁷⁶ They request, for example, that Section 80.409(e)(3)⁷⁷ be amended to specify the precise equipment that must undergo pre-departure and daily testing,⁷⁸ and that Section 80.409(e)(5)⁷⁹ be amended to reduce the frequency of testing certain equipment from weekly to monthly.⁸⁰ According to Owen Anderson, weekly testing of this equipment may lead to battery failure.⁸¹ We concur with the petitioners that the frequency of battery testing should be reduced from weekly to monthly, and we amend Section 80.409(e) accordingly. This action will address concerns that battery depletion stemming from weekly testing could lead to a loss of radio communication capabilities. In addition, this action will remove any discrepancy with Section 80.1099(f)(2) of the Commission's Rules (which requires monthly battery testing),⁸² without having any adverse effect on maritime safety. We decline to further amend Section 80.409(e) at this time. The essence of the petitioners' complaints about the remainder of Section 80.409(e), as currently written, is that it is insufficiently precise.⁸³ However, we do not believe the current rule is ambiguous, and the

⁷³ See Owen Anderson Petition for Reconsideration at 1-2.

⁷⁴ See Kurt Anderson Petition for Reconsideration at 2; Owen Anderson Petition for Reconsideration at 1-2. Log entries for distress communications pertaining to the station's own ship are critical because such entries may provide the most reliable and comprehensive information regarding events affecting the vessel's safety at sea. Analysis of this information may be essential to accurately evaluating such events. Log entries for all distress communications received that do not affect the station's own ship would reference mostly false alerts, which have little informational value, or distress messages from vessels located at great distance from the station's own ship, information concerning which can be obtained from other, more reliable sources, e.g., the transmitting ship or other vessels either in close proximity or those relaying the distress message.

⁷⁵ Owen Anderson argues that the rule should simply require only a "summary of all distress and urgency communications affecting the station's own ship." See Owen Anderson Petition for Reconsideration at 2. However, we favor a requirement that also encompasses distress call acknowledgements received from search and rescue authorities and distress call relays by the station's own ship as better balancing the benefits and burdens of the log-keeping requirement. Kurt Anderson agrees that distress communications from rescue coordination centers and search and rescue authorities should be included in the log. See Kurt Anderson Petition for Reconsideration at 2. Thus, the log-keeping requirement with respect to distress communications remains more expansive in scope, albeit significantly less so following this amendment, than the log-keeping requirement with respect to urgency communications.

⁷⁶ See Kurt Anderson Petition for Reconsideration at 2-7; Owen Anderson Petition for Reconsideration at 2.

⁷⁷ See 47 C.F.R. § 80.409(e)(3).

⁷⁸ See Kurt Anderson Petition for Reconsideration at 2-3; Owen Anderson Petition for Reconsideration at 2.

⁷⁹ See 47 C.F.R. § 80.409(e)(5).

⁸⁰ See Kurt Anderson Petition for Reconsideration at 3-4; Owen Anderson Petition for Reconsideration at 2.

⁸¹ See Owen Anderson Petition for Reconsideration at 2.

⁸² See 47 C.F.R. § 80.1099(f)(2).

⁸³ See Kurt Anderson Petition for Reconsideration at 2-4; Owen Anderson Petition for Reconsideration at 2.

petitioners do not offer specific language that they believe would be preferable to what the rule now says. Moreover, adding more detailed log-keeping and equipment testing requirements to Section 80.409(e) would run counter to the Commission's goals of streamlining the Part 80 rules, relying to the greatest reasonable extent on international standards that can be incorporated by reference, and not adopting regulations that may duplicate or, worse, be inconsistent with Coast Guard requirements. However, we will continue to work closely with the Coast Guard to ensure that adequate guidance on how to comply with Part 80 log-keeping, testing and other requirements is readily available to licensees from various sources, including the Wireless Telecommunications Bureau web page.

21. Finally, upon further deliberation, we conclude that we should amend Section 80.409(a) to expressly state that electronic log maintenance is permissible.⁸⁴ In the *Report and Order*, the Commission declined to so amend the rule because it believed such an amendment to be unnecessary in light of the fact that nothing in the rule proscribes electronic log maintenance. Following adoption of the *Report and Order*, however, the Commission amended its Part 87 rule governing log maintenance in the Aviation Radio Service for the specific purpose of accommodating electronic log maintenance by aeronautical mobile radio licensees.⁸⁵ Because we see no basis for taking a different approach in Part 80, and because pleadings filed in this proceeding reflect some continuing confusion as to whether ship station licensees may maintain logs electronically,⁸⁶ we amend Section 80.409(a) to expressly authorize electronic log maintenance.

F. Procedures for Canceling False Alerts

22. In the *Report and Order*, the Commission addressed a number of issues pertaining to safety watch requirements and procedures.⁸⁷ Among other things, it adopted new rules, Sections 80.334 and 80.335, to prohibit false distress alerts and to provide procedures for the cancellation of false distress alerts, respectively.⁸⁸ In addition, it amended Sections 80.314, 80.315, and 80.316 of the Rules,⁸⁹ which prescribe the formats for distress signals, distress calls, and distress messages, respectively, to include in each rule a cross-reference to Section 80.335 for procedures on canceling false distress alerts. The rule requires the station operator to, *inter alia*, “[t]ransmit a DSC distress alert cancellation (*i.e.*, own ship's acknowledgement), if that feature is available.”⁹⁰ In his petition for reconsideration, Owen Anderson suggests that Section 80.335(a)(2), (b)(2) and (c)(2) be revised by removing the modifier “DSC” to ensure that DSC distress alerts are not acknowledged using the “DSC ACKNOWLEDGE” function that is found

⁸⁴ In his petition for reconsideration, Kurt Anderson states that the permissibility of electronic log-keeping remains an open question, but does not acknowledge the Commission's statement in the *Report and Order* that nothing in the rule forecloses electronic log maintenance. See Kurt Anderson Petition for Reconsideration at 6; *Report and Order*, 17 FCC Rcd at 6771 ¶ 78.

⁸⁵ See Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Service, *Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 01-289, 18 FCC Rcd 21432, 21444 ¶ 27 (2003); 47 C.F.R. § 87.109. Although the text of Section 87.109 does not actually refer to *electronic* log maintenance (or to computer-generated *automatic* logs, as they are described in the adopting order), the language of Section 87.109(c) – imposing a sign-in and sign-out requirement only on stations maintaining written logs – unmistakably evinces the Commission's intent to permit electronic logs. See 47 C.F.R. § 87.109(c).

⁸⁶ See, e.g., Kurt Anderson Petition for Reconsideration at 6.

⁸⁷ See *Report and Order*, 17 FCC Rcd at 6769-70 ¶¶ 70-72.

⁸⁸ See 47 C.F.R. §§ 80.334-80.335.

⁸⁹ See 47 C.F.R. §§ 80.314-80.316.

⁹⁰ See 47 C.F.R. § 80.335(a)(2), (b)(2), (c)(2).

on most existing GMDSS equipment.⁹¹ In lieu of removing the modifier “DSC,” we amend the rule to incorporate the ITU provision on cancellation of DSC distress alerts, ITU-R M.541-9, which requires the station operator to “[i]mmediately cancel the distress alert orally over the telephony distress traffic channel associated with each DSC channel on which the distress alert was transmitted.”⁹² This will both clarify the requirement and ensure its consistency with the applicable international requirement. In addition, we discern no reason to continue to maintain three separate rules governing the format of distress communications, and so we consolidate Sections 80.314, 80.315, and 80.316 into Section 80.314, in the interest of streamlining and clarifying our requirements.⁹³

G. Emergency Position Indicating Radiobeacons (EPIRBs)

23. The Commission amended Section 80.1061 of its Rules,⁹⁴ governing 406.0-406.1 MHz EPIRBs,⁹⁵ in the *Report and Order*.⁹⁶ Among other things, the Commission revised the rule to include the current version – version 2.1 – of the RTCM standard for 406.0-406.1 MHz EPIRBs.⁹⁷ In its petition for reconsideration, RTCM says that it fully supports the revised regulations for 406.0-406.1 MHz EPIRBs, but recommends that the Commission adopt two non-substantive changes to Section 80.1061.⁹⁸ First, RTCM asks that Section 80.1061(a) be revised to include up-to-date information on how to acquire RTCM standards, noting that its address changed as of November 1, 2003.⁹⁹ Second, RTCM asks that Section 80.1061(c) be amended to reflect that the referenced Appendix B of the RTCM standard was removed from version 2.1 of that standard to eliminate needless duplication of COSPAS-SARSAT standards.¹⁰⁰ We agree, as does the Coast Guard,¹⁰¹ that it is appropriate to both update the RTCM contact information and eliminate the references to Appendix B of the RTCM standard.¹⁰² We therefore grant RTCM’s petition for reconsideration.¹⁰³

⁹¹ See Owen Anderson Petition for Reconsideration at 1. While the “DSC ACKNOWLEDGE” function stops the repeated transmission of the distress alert, it does not actually cancel the false distress alert.

⁹² See ITU-R M.541-9 at § 1.7.1.

⁹³ Similarly, we will also consolidate Sections 80.327 and 80.328 into a single rule, and Sections 80.329 and 80.330 into a single rule. In each of these cases, the substantive requirements of the existing rules remain unchanged. This is a non-substantive restructuring of the rules in question. See 5 U.S.C. § 553.

⁹⁴ See 47 C.F.R. § 80.1061.

⁹⁵ The EPIRBs in question were formerly known as 406.025 MHz EPIRBs. The change in nomenclature, to 406.0-406.1 MHz EPIRBs, was adopted by the Commission in the *Report and Order* to better reflect that new satellite EPIRBs may operate on various frequencies in three kilohertz steps within the 406.0-406.1 MHz band, rather than just on a single frequency. See *Report and Order*, 17 FCC Rcd at 6773-74 ¶¶ 84-85.

⁹⁶ See *Report and Order*, 17 FCC Rcd at 6773-74 ¶¶ 84-85.

⁹⁷ *Id.* The standard is RTCM Paper 77-02/SC110-STD, “RTCM Recommended Standards for 406 MHz Satellite Emergency Position-Indicating Radiobeacons (EPIRBs),” Version 2.1, dated June 20, 2002.

⁹⁸ RTCM Petition for Reconsideration at 2.

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 2-4. COSPAS/SARSAT is an international satellite-based search and rescue system jointly established by Canada, Russia, and the United States. COSPAS/SARSAT receives and relays transmissions from 406.0-406.1 MHz EPIRBs.

¹⁰¹ See USCG Petition for Reconsideration at 1.

¹⁰² Although RTCM requests removal of the reference to Appendix B from the introductory paragraph of Section 80.1061(c), we also remove the reference to Appendix B from Section 80.1061(c)(1)(ii).

¹⁰³ We also update the contact information for RTCM in Sections 80.225 and 80.273(a) of the Rules, 47 C.F.R. §§ 80.225, 80.273(a).

H. Routine Calling on DSC Frequencies

24. *Background.* In the *Report and Order*, the Commission acknowledged that there was a need to clarify the Part 80 rules on the question of whether routine, general purpose calling is permitted on DSC frequencies.¹⁰⁴ Specifically, the Commission addressed a discrepancy between Section 80.1077, which allowed MF-HF DSC frequencies to be used for routine ship-to-ship calling,¹⁰⁵ and Section 80.359(b), which specifies that DSC distress frequencies may be used for distress and safety communications and makes no provision for routine calling on those frequencies.¹⁰⁶ The Commission clarified that its intent was to prohibit routine calling on the DSC frequencies.¹⁰⁷ The Commission accordingly amended the table in Section 80.1077 to make clear that routine calling is not permitted on MF and HF DSC frequencies.¹⁰⁸ The Commission concluded that Section 80.359(b) was clear on this point, and so made no changes to that rule.¹⁰⁹

25. *Discussion.* We agree with Neuman that the Commission's decision to prohibit routine calling on DSC frequencies should be reconsidered.¹¹⁰ Neuman correctly observes that the DSC frequencies offer singular advantages for routine ship-to-ship calling.¹¹¹ We also agree that permitting some routine calling on the DSC frequencies should not reduce their availability or effectiveness for distress and safety calling.¹¹² In addition, the ITU permits routine calling on DSC frequencies.¹¹³ We therefore amend Sections 80.359 and 80.1077 to authorize the use of DSC frequencies for routine calling, in keeping with the ITU international *Radio Regulations*, provided that distress and safety communications are accorded priority in the use of the channels. This action will foster international interoperability and spectral efficiency, providing vessels with an additional mechanism for routine ship-to-ship calling without undermining the primary function of the DSC frequencies as distress and safety channels.¹¹⁴

IV. THIRD REPORT AND ORDER

A. DSC Equipment Standards

26. *Background.* In the *Second Further Notice*, the Commission requested comment on

¹⁰⁴ See *Report and Order*, 17 FCC Rcd at 6776-77 ¶¶ 94-95.

¹⁰⁵ See 47 C.F.R. § 80.1077 (2001).

¹⁰⁶ See 47 C.F.R. § 80.359(b).

¹⁰⁷ See *Report and Order*, 17 FCC Rcd at 6777 ¶ 95.

¹⁰⁸ *Id.*; see 47 C.F.R. § 80.1077 n.11.

¹⁰⁹ See *Report and Order*, 17 FCC Rcd at 6777 ¶ 95.

¹¹⁰ See Neuman Petition for Reconsideration at 1.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ See, e.g., ITU-R M.493-11 at Annex 1 § 6.4.1 and Tables 4.8 and 4.9; ITU-R M.541-9 at Annex 3 §§ 4.1-4.3.

¹¹⁴ We are also making various non-substantive corrections to Part 80 so that it more accurately reflects the decisions adopted in the *Report and Order*. The *Report and Order* retitled Subpart R of Part 80 as "Technical Equipment Requirements for Cargo Vessels Not Subject to Subpart W." See *Report and Order*, 17 FCC Rcd at 6825. However, this amendment was inadvertently omitted from the Federal Register summary. See 68 Fed. Reg. 46973 (Aug. 7, 2003) (assigning two paragraph numbers to a single amendatory instruction regarding the revision of Section 80.851 while omitting any amendatory instruction for retitling Subpart R). We seek to correct that omission by again amending the title of Subpart R here.

whether Section 80.225(a) of the Commission's Rules¹¹⁵ should be amended to impose more rigorous requirements for DSC equipment voluntarily installed in coast or ship stations.¹¹⁶ Currently, the rule specifies that such DSC equipment must meet either the requirements of ITU-R M.493-10 (including only equipment classes A, B, D and E) or RTCM Paper 56-95/SC101-STD (SC101).¹¹⁷ However, the ITU has approved a new version 11 of the ITU-R M.493 standard (which incorporates by reference ITU-R M.541-9), and the IEC has adopted a new standard – IEC 62238 – describing certification requirements for a Class D (VHF) DSC radio. The Commission sought comment on whether all DSC equipment should be required to meet Recommendation ITU-R M.493-11, and whether Class D DSC equipment should be required to also meet IEC 62238, in lieu of SC101.¹¹⁸ The Commission noted that IEC 62238 includes a functional requirement requiring dual receivers, to ensure that a DSC call can be received while voice traffic is being received on another channel, and questioned whether upgrading to the IEC 62238 standard would make it prohibitively expensive to comply with the rule.¹¹⁹

27. *Discussion.* After reviewing the record, we conclude that DSC equipment should be required to meet the ITU-R M.493-11 and ITU-R M.541-9 standards and, in the case of Class D equipment, the IEC 62238 standard as well, and we amend Section 80.225(a) accordingly. Compliance with IEC 62238 would require Class D VHF DSC radios to incorporate many new safety features and functions, including dual receiver functionality, revised alarming designed to prevent sound interference with ongoing safety communications, and Global Positioning System (GPS) interconnection alarms designed to ensure that distress alerts include a valid position.¹²⁰ RTCM itself explains that its SC101 standard was developed in contemplation of a low-cost radio that would provide basic DSC functionality for boaters at minimal cost.¹²¹ RTCM says the new standards are far superior to what it terms “the compromised SC101 standard.”¹²² In sum, the safety benefits of requiring compliance with the newer standards are not disputed.

28. In response to the Commission's specific question as to the costs of meeting the IEC 62238 standard, the Coast Guard, RTCM, and La Varre all assert that compliance would not be prohibitively expensive. According to the Coast Guard, the cost of IEC 62238-compliant radios is less than what SC101-compliant radios cost just a few years ago, and IEC 62238-compliant radios are now retailing for under \$200.¹²³ RTCM makes the same point, saying it has observed that installed radios meeting the ITU/IEC Class D standards (with two receivers) are now available in the United States for as

¹¹⁵ See 47 C.F.R. § 80.225(a).

¹¹⁶ See *Second Further Notice*, 19 FCC Rcd at 3160-61 ¶ 79.

¹¹⁷ See 47 C.F.R. § 80.225(a).

¹¹⁸ See *Second Further Notice*, 19 FCC Rcd at 3160-61 ¶ 79.

¹¹⁹ *Id.*

¹²⁰ See USCG Comments at 1; Task Force Comments at 1-2.

¹²¹ See RTCM Comments at 3. In order to arrive at a low-cost design, a number of performance compromises were made, perhaps most significantly the requirement for only one receiver. This means that an SC101 radio will not receive a distress call if the receiver is in use for another call. *Id.* In addition, the SC101 standard does not require a protected distress button, which serves as a safeguard against false distress alerts, but the IEC standard does. See La Varre Comments at 1. In addition, SC101 requires the capability of an all-ships routine call (which is not permitted under the ITU standard), fails to incorporate performance parameters to address environmental or electromagnetic compatibility issues, and, as noted earlier, does not require a second receiver for monitoring the DSC distress frequency, as a consequence of which important DSC calls may be missed when the receiver squelch is held open by a transmission or carrier. *Id.*

¹²² See RTCM Comments at 3.

¹²³ See USCG Comments at 1.

little as \$180, which is less than the price of SC101 radios when they were introduced.¹²⁴ La Varre adds, “The cost of implementing a second receiver for channel 70 should not be a factor; it is very inexpensive to implement a receiver section with today’s technology.”¹²⁵ We conclude that the relatively low retail cost of IEC 62238-compliant radios, coupled with the significant grandfathering protections we are providing to permit continued manufacture, importation, sale and use of DSC equipment authorized under the earlier standards, as discussed below, will minimize the burden of compliance, and that the maritime safety benefits of the new requirements clearly outweigh the costs.¹²⁶

29. We will stop accepting requests for certification of non-handheld radios that do not comply with the new standards one year after the effective date of these rule amendments, and we will stop accepting requests for certification of handheld radios that do not comply with the new standards four years after the effective date.¹²⁷ Although RTCM and the Coast Guard recommend that the Commission cease authorizing new non-handheld DSC radios on the basis of SC101 beginning ninety days after the effective date of these rules,¹²⁸ and La Varre suggests that manufacturers be given a six-month “grace period” for equipment currently in the design phase,¹²⁹ we agree with NPMRC that we should provide one full year before the Commission stops accepting applications for certification of non-handheld SC101 radios.¹³⁰ We believe that the longer transition period better comports with marine radio equipment manufacturers’ design cycles, and will ensure that manufacturers’ investment in the design and manufacture of new SC101 radios is not stranded, while at the same time providing for a reasonably quick phase-in of equipment meeting the new standards. In addition, we will prohibit the manufacture, importation, sale or installation of SC101 radios three years after the effective date of these amendments,

¹²⁴ See RTCM Comments at 3.

¹²⁵ See La Varre Comments at 1. La Varre also observes that the European Union has already adopted this new Class D VHF-DSC standard, and offers this as yet another reason for the United States to do the same. He explains, “In today’s global economy, maintaining a regional standard just increases the cost to the manufacturers, and these costs are in turn passed on to the recreational boating community.” *Id.*

¹²⁶ Although NPMRC appears to advocate an indefinite exemption of voluntary vessels from the new DSC standards in its initial comments, it discusses only grandfathering provisions in its reply comments. Compare NPMRC Comments at 1 with NPMRC Reply Comments at 1. In addition, NPMRC’s initial comments center on its request that the Commission require that DSC radios be designed so that the DSC function can be disabled, because “VHF radios which function as non-DSC radios are needed for ... critical safety, navigation and operational communications.” See NPMRC Comments at 1-3. The *Second Further Notice* did not request comment on the need to require DSC capability in VHF equipment, but only on the appropriate DSC standard. The underlying requirement for DSC capability was established in 1997. 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, 16968 ¶ 32 (1997) (*Second Report and Order in PR Docket No. 92-257*). We accordingly view NPMRC’s comments in this regard as a collateral challenge to the *Second Report and Order in PR Docket No. 92-257* that is beyond the scope of the instant proceeding. Further, although PVA’s comments could be read to request a permanent exemption from the new DSC standards for small passenger vessels that are not required to carry EPIRBs under Coast Guard regulations, it does not offer any explanation or substantiation of why such an exemption is warranted. See PVA Comments at 3. In any event, it is unclear that PVA in fact proposes such a permanent exemption because it appears inconsistent with PVA’s statement that, “[o]ver time, as new vessels replace/upgrade their DSC, the non-EPIRB-carrying fleet will come up to snuff.” *Id.*

¹²⁷ See RTCM Comments at 2. A longer transition period is warranted for handheld equipment because of the greater design challenges involved in incorporating additional safety features in units of smaller size.

¹²⁸ See RTCM Comments at 2 (recommending a ninety-day transition); USCG Reply Comments at 1 (supporting the comments of RTCM).

¹²⁹ See La Varre Comments at 1.

¹³⁰ See NPMRC Reply Comments at 1.

in keeping with the Coast Guard-endorsed recommendation of RTCM.¹³¹ This three-year grandfathering period will provide manufacturers and vendors with enough time to exhaust their inventories of non-handheld SC101 equipment, while giving vessel operators a reasonable opportunity to budget for the purchase of equipment meeting the new standards. With respect to handheld, portable DSC radios, we agree with RTCM that a longer phase-in period is warranted. RTCM recommends without opposition, and we concur, that it would be appropriate to continue to accept applications for certification of handheld SC101 radios for four years after the effective date of the rule amendments, and to permit the manufacture, importation and sale of handheld SC101 radios until seven years after the effective date.¹³² Finally, we will grandfather indefinitely the use of any DSC equipment that was properly certified under SC101 and placed in service prior to the expiration of the relevant transition period.¹³³

B. INMARSAT Ship Earth Stations

30. *Background.* Section 80.905 of the Commission's Rules permits ships operating more than one hundred nautical miles from shore to carry certain INMARSAT ship earth stations in lieu of an SSB radio.¹³⁴ In the *Second Report and Order*, the Commission revised Section 80.905 to limit the ship earth stations authorized under that section to INMARSAT A (existing units only), B, C or M earth stations.¹³⁵ In the *Second Further Notice*, the Commission noted that the IMO had recently accepted the INMARSAT Fleet F77 ship earth station as also meeting GMDSS requirements, and that the IEC had published a certification standard covering the INMARSAT Fleet F77.¹³⁶ The Commission accordingly invited comment on whether Section 80.905 should be further amended to include the INMARSAT Fleet F77 in the list of ship earth stations that are permitted to be used in lieu of an SSB radio.¹³⁷ The Commission also inquired as to whether any mobile satellite equipment meeting the IMO GMDSS requirements and the IEC certification requirements should be authorized for use under Section 80.905, and whether any mobile satellite system meeting the Commission's requirements for enhanced 911 (E-911) emergency calling and relevant IEC certification requirements should be so authorized.¹³⁸

31. *Discussion.* In keeping with the consensus of the commenters, we add the INMARSAT Fleet F77 earth station to the list of ship earth stations that may be carried in lieu of an SSB radio by ships operating more than one hundred nautical miles of shore.¹³⁹ As the Commission noted in the *Second Further Notice*, the IMO has accepted the INMARSAT Fleet F77 earth station as meeting GMDSS requirements.¹⁴⁰ Inmarsat notes that the INMARSAT Fleet F77 earth station provides "as good or better functionality" than INMARSAT A and B earth stations, both of which are already listed in the rule, and is

¹³¹ See RTCM Comments at 2; see also USCG Reply Comments at 1. NPMRC recommends, in lieu of a three-year grandfathering period, that the manufacture, sale and installation of non-handheld SC101 equipment be permitted until one year after the Coast Guard establishes Sea Area A1. See NPMRC Reply Comments at 1. Although there is some merit to this recommendation, we believe that using the effective date of the amendments as the triggering event provides regulated entities with a greater certainty regarding the compliance deadline than would reliance on the establishment of Sea Area A1.

¹³² See RTCM Comments at 2-3.

¹³³ See *id.* at 3. Accordingly, such equipment may be used until the end of its useful life.

¹³⁴ See 47 C.F.R. § 80.905.

¹³⁵ See *Second Report and Order*, 19 FCC Rcd at 3140 ¶ 38.

¹³⁶ See *Second Further Notice*, 19 FCC Rcd at 3161 ¶ 80.

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ See Task Force Comments at 2; RTCM Comments at 5; Inmarsat Reply Comments at 1-2.

¹⁴⁰ See *Second Further Notice*, 19 FCC Rcd at 3161 ¶ 80.

lighter than either of those stations.¹⁴¹ Adding the INMARSAT Fleet F77 earth station to the list of acceptable earth stations would therefore facilitate the replacement of older, less efficient earth stations, while providing the maritime community with additional equipment options.¹⁴²

32. In addition, we agree in principle with those commenters who contend that there is no reason to withhold authorization under Section 80.905 of any mobile satellite equipment meeting the IMO GMDSS requirements and the IEC certification requirements.¹⁴³ We decline, however, to rewrite the rule to generally permit use in lieu of an SSB radio of any earth station meeting IMO GMDSS and IEC certification requirements, because we believe listing the specific types of approved earth stations is less likely to engender confusion. Given that at present, there are no other classes of earth station that have been approved by the IMO for GMDSS other than those listed in Section 80.905, as amended herein, we take no further action at this time. Instead, we will entertain future requests to amend the rule to add any additional mobile satellite equipment that is subsequently approved.

33. We also conclude that it would not be prudent to amend the rule to authorize any mobile satellite system equipment with E-911 functionality. An earth station could have E-911 functionality and yet not satisfy the IMO GMDSS requirements. We agree with the Coast Guard and RTCM that such equipment should not be authorized for use under Section 80.905.¹⁴⁴ As the Coast Guard explains, “until operation and capabilities of E-911 functionality in mobile satellite equipment becomes better defined, and equipment capable of meeting the environmental requirements of ships becomes available, ... mobile satellite equipment used to meet vessel carriage requirements [should] be limited to that meeting the ... GMDSS requirements.”¹⁴⁵

C. Reserve Power Requirements for Small Passenger Vessels

34. *Background.* Section 80.917 of the Commission’s Rules requires vessels of more than one hundred gross tons to have a reserve power supply meeting certain minimum standards.¹⁴⁶ In 2002, the National Transportation Safety Board (NTSB) recommended that the Commission amend Section 80.917 to extend this reserve power requirement to small passenger vessels of one hundred gross tons or less in the interest of maritime safety.¹⁴⁷ The NTSB arrived at this recommendation, NTSB Recommendation M-02-17, in the wake of its investigation of a November 17, 2000 fire on board the small passenger vessel *Port Imperial Manhattan* in the Hudson River.¹⁴⁸ The Commission requested

¹⁴¹ See Inmarsat Reply Comments at 1.

¹⁴² *Id.* Relatedly, we adopt RTCM’s recommendations to reference INMARSAT M and Fleet F77 earth stations, as well as INMARSAT A, B and C earth stations in Section 80.310 of the Commission’s Rules, 47 C.F.R. § 80.310, and to add IEC 61097-13 to Section 80.1101, 47 C.F.R. § 80.1101, as the applicable standard for the INMARSAT Fleet F77. See RTCM Comments at 5.

¹⁴³ See Task Force Comments at 2; RTCM Comments at 5.

¹⁴⁴ See USCG Comments at 2; RTCM Comments at 5.

¹⁴⁵ See USCG Comments at 2; see also Implementation of 911 Act, *Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration*, WT Docket No. 00-110, 16 FCC Rcd 22264, 22287 ¶ 59 (2001) (encouraging ship stations to use 911 “would lead to confusion among users of the specialized maritime radio service[, who] already have a well-established emergency response system in place”).

¹⁴⁶ See 47 C.F.R. § 80.917. Section 80.917, by its terms, does not apply to any vessel the keel of which was laid on or before March 1, 1957. See *id.* § 80.917(a).

¹⁴⁷ See Letter, dated July 3, 2002, from Marion C. Blakey, Chairman, NTSB, to Michael K. Powell, Chairman, FCC (*NTSB Recommendation*).

¹⁴⁸ *Id.* The fire broke out when the *Port Imperial Manhattan* was carrying eleven persons on an evening commuter run from Manhattan to Weehawken, New Jersey. The vessel’s radio became inoperative when the fire burned through the electrical cables to the pilothouse. The *Port Imperial Manhattan* was not outfitted with an emergency

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comment on the NTSB proposal, asking proponents of an extension of the reserve power supply requirement to consider whether the Commission should simply remove the tonnage limitation in Section 80.917, or whether additional or alternative rule changes are warranted.¹⁴⁹ The Commission asked commenters to provide information on the costs to small vessel operators of complying with such a requirement, and whether the safety benefits to be derived therefrom outweigh the compliance costs.¹⁵⁰

35. *Discussion.* We agree with the majority of the commenters that the reserve power supply requirement should be broadened in scope.¹⁵¹ A reserve power supply can make a life-or-death difference for passengers and crew on board a passenger vessel in distress. Without a reserve power supply, a small passenger vessel may be unable to communicate via radiotelephone with search and rescue personnel in an emergency, and that inability to communicate could jeopardize the safety of those on board.¹⁵² In addition, the record does not reveal any alternative to a reserve power supply that would be equally effective in ensuring that a vessel could communicate with search and rescue personnel in the event of a loss of ship power.¹⁵³

36. The record does not provide extensive information on the costs that would be incurred by small passenger vessel operators to comply with an expanded reserve power supply requirement. The Task Force and RTCM believe that the cost is reasonable when balanced against the safety benefits, but do not attempt to quantify the cost.¹⁵⁴ In an *ex parte* presentation filed in the record of this proceeding, NMCA estimates the cost of acquiring a reserve power supply at between eighty and four hundred dollars.¹⁵⁵ NMCA asserts that this cost would represent a significant burden for its members, charter boat operators, the majority of which are very small businesses.¹⁵⁶ NMCA therefore opposes imposition of the reserve power supply requirement on small charter boat operators.¹⁵⁷

37. Although the Task Force and RTCM both advocate simply removing the tonnage

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backup source of power, and was not required to have such reserve power under the Commission's rules because it weighs less than one hundred gross tons. Although passengers and crew were ultimately rescued without loss of life, the NTSB concluded that the vessel's inability to contact search and rescue personnel through VHF radiotelephone communication unnecessarily increased the risk to passengers and crew. *Id.* at 2.

¹⁴⁹ See *Second Further Notice*, 19 FCC Rcd at 3162 ¶ 82.

¹⁵⁰ *Id.*

¹⁵¹ See USCG Comments at 2; USCG Reply Comments at 3; Task Force Comments at 2-3; RTCM Comments at 5-6; PVA Comments at 2-3.

¹⁵² See *NTSB Recommendation* at 1; RTCM Comments at 5.

¹⁵³ RTCM says it considered the possibility that waterproof handheld radios, such as a survival craft portable radio, could provide an adequate alternative to a reserve power supply, but that limitations in power and battery capacity counsel against reliance on handheld radios for this purpose. See RTCM Comments at 6.

¹⁵⁴ See Task Force Comments at 2 (simply asserting that “[t]he cost of providing reserve power is considered acceptable in view of the safety benefit”); RTCM Comments at 6 (simply asserting that a reserve power supply requirement “can be met economically...”).

¹⁵⁵ See Letter dated June 22, 2004, from Melissa Moskal, Director of Government Affairs, National Marine Charter Association, to FCC.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.* NMCA adds that it is initiating a self-accreditation program, the Accredited Vessel Inspection Program, which gives charter boat operators an incentive to install safety devices such as reserve power supplies, and that the Commission should rely on this self-regulatory measure, rather than a regulatory mandate, to foster installation of reserve power supplies on charter vessels. *Id.*

limitation in Section 80.917, and thus applying the reserve power supply requirement to all small passenger vessels without exception,¹⁵⁸ we believe the requirement should be extended at this time only to those vessels that would most benefit from a reserve power source and that are best able to absorb the economic impact of the requirement. Specifically, we adopt a proposal advanced by PVA¹⁵⁹ that would extend the reserve power supply requirement to (a) small passenger vessels of less than one hundred gross tons that carry more than 150 passengers or have overnight accommodations for more than forty-nine persons;¹⁶⁰ and (b) other small passenger vessels of less than one hundred gross tons¹⁶¹ that are required to carry EPIRBs under the Coast Guard's Navigation and Vessel Inspection Circular No. 3-99 (NVIC 3-99), *i.e.*, that operate on the high seas or more than three miles from shore on Great Lakes voyages.¹⁶² We believe this approach appropriately takes into account a vessel's passenger capacity and area of operation in weighing the costs and benefits of imposing the reserve power supply requirement, and addresses NMCA's concerns that the burden of the reserve power requirement is excessive in comparison to its benefits for small charter boat operators that carry relatively few passengers and that remain close to shore.¹⁶³ As PVA points out, the Coast Guard recognizes, as manifested in its separate Subchapter K and Subchapter T regulatory frameworks, "that all small passenger vessels should not be lumped together for all regulatory purposes."¹⁶⁴ Consequently, the Coast Guard imposes additional requirements on vessels subject to Subchapter K or NVIC 3-99 because the safety of those vessels takes on added importance due to either the greater potential loss of life in the event of a distress situation or the vessel's potential distance from shore and from land-based rescuers. We place great reliance on the Coast Guard's endorsement of this proposal in its reply comments¹⁶⁵ in concluding that it accords proper weight to the paramount goal of improving maritime safety.¹⁶⁶ In sum, we agree with the Coast Guard that this approach achieves the "necessary balance between enhanced maritime safety and economic burden."¹⁶⁷

38. We note that no commenter proposed or even discussed an appropriate compliance deadline for the small passenger vessels newly subject to the reserve power supply requirement. The Commission often provides for a transition period before licensees are required to comply with new maritime equipment requirements, and we believe we should provide for a transition period with respect to this requirement. In the absence of any comments on this issue, we will provide that small passenger

¹⁵⁸ See Task Force Comments at 2; RTCM Comments at 5-6.

¹⁵⁹ See PVA Comments at 1-2.

¹⁶⁰ This is the class of vessels subject to Subchapter K of the Coast Guard regulations, 46 C.F.R. §§ 114.100-122.910.

¹⁶¹ This is the class of vessels subject to Subchapter T of the Coast Guard regulations, 46 C.F.R. §§ 175.100-185.910.

¹⁶² See Navigation and Vessel Inspection Circular No. 3-99, "Global Maritime Distress and Safety System (GMDSS) and Emergency Position Indicating Radiobeacon (EPIRB) Equipment Requirements for Commercial Vessels," Table 3, note 9 (1999) (NVIC 3-99).

¹⁶³ NMCA noted in its *ex parte* presentation that many of its members already carry a back-up source of communications: a cellular or other commercial mobile radio telephone. While we do not believe a cellular telephone provides the same margin of safety as a reserve power supply, we note that Coast Guard regulations permit the use of a cellular telephone as an acceptable alternative to other maritime communications equipment in certain circumstances. See 46 C.F.R. § 28.245(d).

¹⁶⁴ See PVA Comments at 3.

¹⁶⁵ See USCG Reply Comments at 3.

¹⁶⁶ We note, in addition, that if this amendment of Section 80.917 had been in effect at the time, the reserve power supply requirement would have applied to the *Port Imperial Manhattan* because it has a 409-person capacity. See license for Ship Station WBP3384.

¹⁶⁷ See USCG Reply Comments at 3.

vessels newly subject to the reserve power requirement must comply with that requirement within one year after the effective date of these rule amendments. We believe a one-year period fairly balances the interest in minimizing the compliance burden against the interest in deploying new maritime safety features expeditiously.

39. Although we find, on the basis of the instant record, that we should not extend the reserve power supply requirement to *all* small passenger vessels, we strongly encourage the owners and operators of small passenger vessels that are not subject to this reserve power supply requirement to nonetheless install a reserve power supply on such vessels, or to at least take other measures, such as carriage of VHF marine handheld radio equipment, as a means of maintaining the ability to communicate with search and rescue personnel in the event of a disruption to the ship's main power supply. In addition, in the *Third Further Notice*, we request comment on whether the carriage of at least one VHF marine handheld radio transceiver should be mandatory for all small passenger vessels that are not subject to the requirement to carry a reserve power supply.¹⁶⁸

D. Commercial Operator License Issues

40. *Background.* In the *Second Further Notice*, the Commission invited comment on a proposal to extend the license terms of GMDSS Radio Operator's Licenses, GMDSS Radio Maintainer's Licenses, GMDSS Operator/Maintainer Licenses, and Marine Radio Operator Permits from five years to the lifetime of the holder.¹⁶⁹ Commenters were also asked whether such an extension of the license term, if adopted, should apply to existing licenses as well as new licenses.¹⁷⁰ The Commission also asked commenters to consider two possible amendments of the rules pertaining to commercial radio operator license examinations. First, the Commission questioned whether it should remove the requirement in Section 13.215 of its Rules¹⁷¹ that COLE Managers use only the most recent question pool made available to the public in selecting questions for an examination.¹⁷² The Commission explained that it might be beneficial to provide a reasonable transition period before use of a new question pool becomes mandatory, and that, if the rule were amended in this manner, the Wireless Telecommunications Bureau could announce a transition period for phasing in the use of any new question pool in the same public notice in which it announces the establishment and availability of that question pool.¹⁷³ Second, the Commission requested comment on whether it should amend Section 13.203(a) of its Rules¹⁷⁴ by deleting the specification of the number of questions for each examination element. If the number of questions for each examination element is not codified, the Commission reasoned, the Wireless Telecommunications Bureau would have the flexibility to specify the number of questions for a given examination element in a public notice, obviating the need to undertake a rulemaking every time the number of questions is changed.¹⁷⁵

¹⁶⁸ See para. 71, *infra*.

¹⁶⁹ See *Second Further Notice*, 19 FCC Rcd at 3162 ¶ 83. This proposal was first made by Richard H. Weil in a petition for rulemaking filed on November 22, 1999. Richard H. Weil Petition for Rulemaking, RM-10647, filed Nov. 22, 1999 (*Weil Petition*). The *Weil Petition* argued, *inter alia*, that it is arbitrary to provide five-year terms for these authorizations when General Radiotelephone Operator Licenses, Restricted Radiotelephone Operator Permits, and Restricted Radiotelephone Operator Permits-Limited Use have lifetime terms. *Id.*; see 47 C.F.R. § 13.15(b).

¹⁷⁰ See *Second Further Notice*, 19 FCC Rcd at 3162 ¶ 83.

¹⁷¹ See 47 C.F.R. § 13.215.

¹⁷² See *Second Further Notice*, 19 FCC Rcd at 3163 ¶ 84.

¹⁷³ *Id.*

¹⁷⁴ See 47 C.F.R. § 13.203(a).

¹⁷⁵ See *Second Further Notice*, 19 FCC Rcd at 3163 ¶ 84.

41. *Discussion.* We adopt all of the amendments to the commercial radio operator rules discussed above. We extend license terms for GMDSS Radio Operator's Licenses, Restricted GMDSS Radio Operator's Licenses,¹⁷⁶ GMDSS Radio Maintainer's Licenses, GMDSS Operator/Maintainer Licenses, and Marine Radio Operator Permits to the lifetime of the holder because the renewal process imposes an unnecessary paperwork and filing fee burden on licensees inasmuch as licensees' continued competency is not assessed in any way upon renewal,¹⁷⁷ and because there appears to be no reason to treat these licenses differently in this connection from those that already have lifetime terms.¹⁷⁸ The lifetime term will apply to existing licenses as well as new licenses, as of the effective date of these rule amendments.¹⁷⁹ Finally, we also eliminate both the Section 13.215 requirement that COLE Managers use the most recent question pool available to the public, and the Section 13.203 specifications of the number of questions for each examination element. These rule changes will provide both the Commission and COLE Managers with additional flexibility in managing the examination administration process.¹⁸⁰

E. Ship Security Alert System (SSAS)

42. *Background.* On May 29, 2003, the IMO adopted Resolution MSC.147(77), Adoption of the Revised Performance Standards for a Ship Security Alert System, to provide a means for certain ships to transmit a covert security alert to shore to indicate that the security of the ship is under threat or has been compromised. The Resolution was incorporated into SOLAS Chapter XI-2, Regulation 6 and went into effect on July 1, 2004. The Resolution recommended only functional requirements for the SSAS.¹⁸¹

¹⁷⁶ The Restricted GMDSS Radio Operator's License did not exist when the *Weil Petition* was filed. We determine here to extend the license term of the Restricted GMDSS Radio Operator's License, notwithstanding that such an extension was not proposed in the *Weil Petition*, because it is consistent with our rationale for extending the terms of the other licenses discussed herein. In particular, we discern no policy basis for providing a license term for the Restricted GMDSS Radio Operator's License that differs from the license term for the GMDSS Radio Operator's License.

¹⁷⁷ No party opposes this extension of the license terms to the lifetime of the holder. See USCG Comments at 3; Task Force Comments at 3; RTCM Comments at 6; NPMRC Comments at 2. The Task Force says it supports lifetime license terms "reluctantly" and would "likely support" a license renewal requirement if renewal applicants were required to demonstrate their continued qualifications. See Task Force Comments at 3. The Coast Guard says it has no objection to the lifetime license term, "provided the Commission can ensure that license holders' GMDSS competency is maintained." See USCG Comments at 3. Inasmuch as the current license renewal requirement does not involve an assessment of licensee competency, removing the renewal requirement should not have any significant effect on overall licensee competency.

¹⁷⁸ The following commercial radio operator licenses and permits already have lifetime terms: General Radiotelephone Operator Licenses, Restricted Radiotelephone Operator Permits, and Restricted Radiotelephone Operator Permits-Limited Use. See 47 C.F.R. § 13.15(b).

¹⁷⁹ The Task Force, the only commenter addressing this precise issue, agrees that the lifetime term should apply to existing license and permit holders. See Task Force Comments at 3. We emphasize that the lifetime term will apply to both active licenses and new licenses *as of the effective date of these rule amendments*, which will not occur until sixty days after they are published in the Federal Register. We caution existing holders of GMDSS Radio Operator's Licenses, Restricted GMDSS Radio Operator's Licenses, GMDSS Radio Maintainer's Licenses, GMDSS Operator/Maintainer Licenses, and Marine Radio Operator Permits that *they remain subject to the existing renewal requirements until the new rules take effect*. Any license with an expiration date prior to the effective date of this rule change must be renewed no later than the end of the five-year grace period to avoid the need to apply for a new license and retake the examination. See 47 C.F.R. § 13.13(b).

¹⁸⁰ See RTCM Comments at 7; NPMRC Comments at 2; *see also* Task Force Comments at 3.

¹⁸¹ For example, the system should have two activation points known only to the user, the system shall operate on a radio system that does not require adjustments such as tuning the radio and shall not cause an alarm to be raised on board, and the system shall include a unique identifier indicating that the alert has not been generated as a GMDSS alert. The Resolution did not recommend technical performance standards for the SSAS, but recommended that it

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In the *Second Further Notice*, the Commission requested comment to assist it “in formulating the rules to guide the industry in making communications equipment to meet the needs of the SSAS.”¹⁸² The Commission asked commenters to address, for example, appropriate requirements for SSAS equipment, certification, testing, registration, technical performance, message content and format, and routing of ship security alerts.¹⁸³

43. *Discussion.* In accord with the consensus view of the commenters addressing this issue,¹⁸⁴ we provide for the authorization of SSAS equipment designed to operate with the COSPAS-SARSAT system, and the authorization of INMARSAT D+ equipment for SSAS. RTCM notes that it was asked by the National Oceanic and Atmospheric Administration to develop a standard for SSAS equipment using the COSPAS-SARSAT system because there are certain message content requirements for SSAS messages transmitted via COSPAS-SARSAT and because the configuration of the installed SSAS unit is different from the portable beacons used with other COSPAS-SARSAT services.¹⁸⁵ RTCM has completed such a standard, RTCM Paper 110-2004/SC110-STD (SC110), and the commenters addressing this issue unanimously favor reliance on SC110 in certifying COSPAS-SARSAT SSAS units.¹⁸⁶ We therefore amend the rules¹⁸⁷ to provide for the certification of COSPAS-SARSAT SSAS units, incorporating by reference SC110 as the governing standard. In addition, we also amend Part 80 to provide for the certification and use of INMARSAT D+ equipment because such equipment is presently available and suitable for the transmission of SSAS alerts.¹⁸⁸

44. We otherwise refrain from regulating SSAS. SSAS messages can be transmitted through existing communications systems, so there is generally no need to establish SSAS-specific rules in Part 80.¹⁸⁹ In particular, we do not adopt any requirements of general applicability with respect to SSAS message content and format, or the routing of ship security alerts. Other than with respect to COSPAS-SARSAT SSAS equipment, there does not appear to be any need for the Commission to regulate SSAS message content and format, or to augment the SOLAS regulation governing the routing of security alerts, Regulation XI-2/6.2.1. No commenter has suggested otherwise. Inmarsat cautions, moreover, that the Commission’s adoption of SSAS requirements beyond those established by the IMO and the Coast Guard “may limit the diversity of SSAS available to ship operators and inadvertently provide information to pirates and other bad actors that might be used to circumvent SSAS.”¹⁹⁰ We concur that it is unnecessary,

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may use existing radio installations that are compliant with chapter IV of the SOLAS Convention, other general communications radio systems, or a dedicated radio system.

¹⁸² See *Second Further Notice*, 19 FCC Rcd at 3164 ¶ 85.

¹⁸³ *Id.*

¹⁸⁴ See USCG Comments at 3; RTCM Comments at 7-9; Task Force Comments at 3-4; Inmarsat Reply Comments at 3.

¹⁸⁵ *Id.* at 7.

¹⁸⁶ See *id.*; USCG Comments at 3; Task Force Comments at 3.

¹⁸⁷ Specifically, we add a new Section 80.277 to authorize SSAS using COSPAS-SARSAT or INMARSAT D+ equipment.

¹⁸⁸ See USCG Comments at 3; RTCM Comments at 8; Task Force Comments at 3-4; Inmarsat Reply Comments at 3.

¹⁸⁹ See RTCM Comments at 7-8.

¹⁹⁰ See Inmarsat Reply Comments at 3.

and could be counterproductive, to adopt additional Part 80 requirements for SSAS.¹⁹¹

F. Updated References to International Standards

45. The Commission noted in the *Second Further Notice* that one of the key goals of the WT Docket No. 00-48 rulemaking proceeding is to keep the Part 80 rules up to date with respect to changes in the relevant international standards.¹⁹² It accordingly asked commenters to identify any IMO, ITU, IEC or other standards incorporated by reference in Part 80 that have been revised or updated subsequent to the adoption of the *Report and Order* on March 27, 2002.¹⁹³ In addition, the Commission specifically asked whether it should make the on-board frequencies listed in Section 80.373(g) of the Commission's Rules¹⁹⁴ available for narrowband operations in light of the narrowbanding of these frequencies by the ITU.¹⁹⁵ After reviewing the comments, we update a number of the standards incorporated by reference in Part 80.¹⁹⁶ In addition, we agree with RTCM that narrowbanding the frequencies listed in Section 80.373(g) is appropriate to align the Part 80 rules with the ITU channel plan.¹⁹⁷ Narrowbanding also promotes efficient spectrum use.¹⁹⁸

¹⁹¹ It would be especially inappropriate to adopt SSAS rules of general applicability given the IMO's determination that SSAS procedures "ideally should be individual to the ship." See IMO MSC/Circ. 1072, *Guidance on Provision of Ship Security Alert Systems* at Annex ¶ 2 (June 26, 2003).

¹⁹² See *Second Further Notice*, 19 FCC Rcd at 3164 ¶ 86.

¹⁹³ *Id.*

¹⁹⁴ 47 C.F.R. § 80.373(g).

¹⁹⁵ See *Second Further Notice*, 19 FCC Rcd at 3164 ¶ 86 (citing 47 C.F.R. § 2.106 n.5.287).

¹⁹⁶ Specifically, we make the following changes to our rules: (a) replace references to ITU-R Recommendations M.493-10 and M.541-8 with the revised versions, M.493-11 and M.541-9, both in Section 80.225, as discussed in para. 27, *supra*, and in the other Part 80 rules referencing these standards, see 47 C.F.R. §§ 80.5, 80.103(a), (c), (e), 80.179(e), 80.359(b), 80.1101(c), 80.1117(a); (b) replace references to CCIR Recommendations 625 and 476 with references to ITU-R Recommendations M.625 and M.476, see 47 C.F.R. § 80.207(d) n.14; (c) update the radar standards referenced in Section 80.273, 47 C.F.R. § 80.273, by incorporating by reference IMO Resolution MSC.64(67) Annex 4 and ITU-R M.1177-3; (d) update the reference in Section 80.1085(a)(6)(iii) from IMO Circular MSC/Circ. 882 to IMO Circular MSC/Circ. 1040 (28 May 2002), see 47 C.F.R. § 80.1085(a)(6)(iii); (e) change the standards referenced in Section 80.1101(b)(4)-(5) to IEC 60092-101 and IEC 60533, respectively, see 47 C.F.R. § 80.1101(b)(4)-(5); (f) update the standard referenced in Section 80.1101(c)(5)(iii) from ITU-R Recommendation M.633-2 to ITU-R Recommendation M.633-3, see 47 C.F.R. § 80.1101(c)(5)(iii); (g) correct the reference in Section 80.1101(c)(7) to IMO Resolution A.762(18), see 47 C.F.R. § 80.1101(c)(7); (h) update the references to the IEC standards in Section 80.1101(c)(11) to reflect that all of them are part of the IEC 61097 series, see 47 C.F.R. § 80.1101(c)(11)(ii)-(v), (ix); and (i) update the information on acquiring standards from the American National Standards Institute, see 47 C.F.R. § 80.1101(d)(3)-(4). In addition, in the *Third Further Notice*, at para. 74, *infra*, we request comment on adding IEC 60936 and IEC 62252 to the radar standards contained in Section 80.273, 47 C.F.R. § 80.273, as urged by RTCM. See RTCM Comments at 12-14.

¹⁹⁷ See RTCM Comments at 19.

¹⁹⁸ NPMRC opposes narrowbanding these frequencies "as it would create serious interoperability problems between existing ship and coast stations and narrowband equipment." See NPMRC Comments at 2. We are not persuaded that the interoperability concerns cited by NPMRC outweigh the desirability of conforming the United States frequency plan with that of the ITU, particularly since ship stations are not permitted to use these on-board frequencies to communicate with coast stations. See 47 C.F.R. § 80.373(g); see also 47 C.F.R. § 80.5 (defining an on-board communication station as "intended for use for internal communications on board a ship, or between a ship and its lifeboats and liferafts during lifeboat drills or operations, or for communication within a group of vessels being towed or pushed, as well as for line handling and mooring instructions"). As amended, moreover, Section 80.373(g) does not mandate the narrowbanding of on-board frequencies, but merely authorizes it on a permissive basis. Nothing in the amended rule would preclude vessels from continuing to use 25 kHz on-board channels.

G. 2002 Biennial Review

46. On November 8, 2002, Globe Wireless filed *ex parte* comments in the 2002 Biennial Regulatory Review proceeding proposing the elimination or revision of a number of Part 80 rules.¹⁹⁹ The Globe Wireless Comments were incorporated into the record of this proceeding, and the Commission requested comment on them in the *Second Further Notice*.²⁰⁰ The Commission also noted that some additional changes to the Part 80 Rules may be warranted as “housekeeping” measures, and requested comment on several specific proposals.²⁰¹ We address these matters below.²⁰² In the following section, Section IV.H., we adopt additional housekeeping amendments to Part 80.

47. *Remote Control Programming of Transmitters.* Section 80.203(b)(3) of the Commission’s Rules requires that the programming of (non-preprogrammed) channels in maritime radio transmitters “be performed only by a person holding a first or second class radiotelegraph operator’s certificate or a general radiotelephone operator’s license” using specified procedures.²⁰³ Globe Wireless suggests that Section 80.203(b)(3) be eliminated because it does not reflect the reality that transmitters today may be programmed accurately through the use of remote computers without any danger of operation on unauthorized frequencies.²⁰⁴ MariTEL supports this Globe Wireless proposal, noting that advances in communications networking systems have permitted increasingly centralized control of shore stations, such that “programming of VHF transmitters at any site is primarily accomplished via remote control software, which provides the ability to more effectively control, monitor and maintain the communications system.”²⁰⁵ We agree with Globe Wireless and MariTEL that computerized remote control programming of maritime transmitters offers significant operating efficiencies, and can be performed accurately and without raising the risk of operation on unauthorized frequencies.²⁰⁶ However, we do not simply delete Section 80.203(b), as requested by Globe Wireless, because that would remove the requirement that manual, *i.e.*, non-remote control, programming be done only by persons holding one of the enumerated Commission authorizations.²⁰⁷ Instead, we retain Section 80.203(b)(3) but add to it a provision permitting computerized remote control programming of maritime transmitters, provided that

¹⁹⁹ Globe Wireless, Comments on: 476 [sic] CFR Chapter 1 – Possible Revision or Elimination of Rules (filed Nov. 8, 2002) (Globe Wireless Comments).

²⁰⁰ See *Second Further Notice*, 19 FCC Rcd at 3164 ¶ 87.

²⁰¹ See *id.* at 3165 ¶ 88.

²⁰² Certain of Globe Wireless’ requests are moot because they already have been addressed in this proceeding. Globe Wireless requests, and RTCM agrees, that Section 80.141(c)(1)-(2) of the rules, 47 C.F.R. § 80.141(c)(1)-(2), should be deleted as obsolete. See Globe Wireless Comments at 1; RTCM Comments at 17. That amendment was adopted in the *Report and Order*. See *Report and Order*, 17 FCC Rcd at 6803, Appendix B. Globe Wireless requests deletion of the frequencies 410 kHz and 500 kHz from the list of radiodetermination carrier frequencies in Section 80.375(a) of the rules, 47 C.F.R. § 80.375(a). See Globe Wireless Comments at 3. That change also occurred in the *Report and Order*. See *Report and Order*, 17 FCC Rcd at 6770 ¶ 75. Finally, Globe Wireless requests that Section 80.802 of the rules, 47 C.F.R. § 80.802, be eliminated and that Section 80.836, 47 C.F.R. § 80.836, be modified to reflect that elimination of Section 80.802. See Globe Wireless Comments at 3. Sections 80.802 and 80.836 were both removed in their entirety in the *Report and Order*. See *Report and Order*, 17 FCC Rcd at 6824, Appendix B.

²⁰³ See 47 C.F.R. § 80.203(b)(3).

²⁰⁴ See Globe Wireless Comments at 1.

²⁰⁵ See MariTEL Reply Comments at 3-4.

²⁰⁶ Although RTCM argues that Section 80.203(b)(3) should be retained, it does not challenge the assertions of Globe Wireless and MariTEL, and does not explain why it is opposed to remote control programming of marine transmitters. See RTCM Comments at 18.

²⁰⁷ No party has suggested that the licensing requirement for manual programming be changed.

the remote control software is disabled from selecting non-authorized frequencies.

48. *Emission Classes.* Globe Wireless and MariTEL both recommend amending Section 80.207 of the Commission's Rules²⁰⁸ so that any emission class of the licensee's choosing may be used on any non-distress frequencies, provided that licensees transmit only within their authorized bandwidth and in compliance with the applicable emission mask.²⁰⁹ According to Globe Wireless and MariTEL, the Section 80.207 list of permissible emission classes is not up to date, does not accommodate new technologies and services, is imprecise, and is an archaic approach to regulating emissions.²¹⁰ MariTEL argues that any list of permissible emission types is bound to require frequent revision in order to reflect new technologies and services, and is likely to be obsolete in some respects at any given time.²¹¹ While we agree that eliminating the list of emission designators might be of some benefit in terms of licensee flexibility, that action would also cause the Commission's rules to diverge from the ITU international *Radio Regulations*.²¹² We generally are reluctant to have the Part 80 technical rules diverge from international standards without compelling reason, and we agree with the Coast Guard that we should not do so in this case.²¹³ Emission designators remain a significant spectrum management tool. According to the Coast Guard, moreover, "until such time as appropriate rules governing new technologies are developed and promulgated the elimination of existing emission designators would adversely affect interoperability, and could have adverse effects on the safety of the maritime public, and further could potentially affect other sovereign states."²¹⁴ We therefore decline at this time to amend Section 80.207(d) to remove the list of permissible emission classes.²¹⁵

²⁰⁸ See 47 C.F.R. § 80.207(d).

²⁰⁹ See Globe Wireless Comments at 2; MariTEL Comments at 3-4; MariTEL Reply Comments at 2-3. Globe Wireless and MariTEL both favor continuing to designate specific emission classes for distress frequencies.

²¹⁰ See Globe Wireless Comments at 2; MariTEL Comments at 3-4; MariTEL Reply Comments at 2-3.

²¹¹ See MariTEL Comments at 3 (asserting that "any attempt to change Section 80.207(d) today to reflect current technology and services will only result in an amended Section 80.207(d) becoming obsolete in the future."); see also MariTEL Reply Comments at 2.

²¹² See *ITU Radio Regulations*, Edition of 2004, Article 52, "Special rules relating to the use of frequencies" (setting forth emission designators for internationally recognized maritime channels).

²¹³ See USCG Reply Comments at 2.

²¹⁴ *Id.*

²¹⁵ We also decline, without prejudice, various requests to add specific emission designators to Section 80.207(d). Globe Wireless recommends that, if the Commission continues to list permissible emission designators one-by-one, it should at least add the designators 2K80J2D, 2K80F1B, and 2K80F7B, but Globe Wireless provides no explanation to support such an amendment. We therefore take no action on this recommendation. See Globe Wireless Comments at 2. RTCM recommends that the Commission amend Section 80.207(d) to permit "(a) data operation over the AIS frequencies 161.975 and 162.025 MHz; and (b) data operation over voice channels not used for safety or safety-related operation or otherwise excluded, on a non-interference basis to voice, provided that i) carrier sense circuitry be employed to prevent data transmissions on a channel while being used for voice communications within one minute of a voice transmission, ii) transmission duration should not exceed one second, and iii) carrier sense circuitry monitor the channel every second." See RTCM Comments at 18; see also MariTEL Comments at 3 (noting that the Commission has permitted the use of transmitters for AIS operations that are not contemplated by Section 80.207(d)). We view the proposal regarding AIS data operation on the frequencies 161.975 MHz and 162.025 MHz as premature, given that the Commission has not yet designated those channels for AIS, and will address that precise issue and other relevant AIS technical questions in the *AIS Rulemaking Proceeding*. We similarly reject without prejudice RTCM's second recommendation because RTCM does not offer any analysis of the technical and operational implications of introducing carrier sense circuitry into the marine radio environment for the purpose of permitting data transmissions on voice channels. See also MariTEL Reply

(continued...)

49. *Morse Code Frequencies.* Globe Wireless requests²¹⁶ that we delete Sections 80.355 and 80.357 of the Rules.²¹⁷ RTCM agrees that these rules, which pertain to Morse code radiotelegraphy, should be deleted as obsolete.²¹⁸ The Commission addressed this issue in the *Report and Order*, and there declined to delete Sections 80.355 and 80.357.²¹⁹ The Commission also indicated that it would revisit this issue if the record were augmented to establish whether the Morse radiotelegraph frequencies are being used.²²⁰ In the absence of additional record information on this subject, we remain unconvinced that deleting the Morse radiotelegraph frequency tables is necessary or beneficial at this time. We note that Globe Wireless did not explain why the sections should be deleted. There remain a number of valid licenses with Morse radiotelegraphy authorizations.²²¹ It should also be noted that eliminating the Morse rules would not make additional spectrum available to other users in the 4-27 MHz band due to the sharing of this spectrum with facsimile operations.²²² We therefore decline to delete Section 80.355 or Section 80.357.

50. *Frequency Allotments and Limitations.* Globe Wireless requests various amendments of Sections 80.363 and 80.371 of the Commission's Rules.²²³ With respect to Section 80.363, which sets forth the frequencies available for facsimile communications, Globe Wireless requests the removal of limitations on use of the frequencies for "data/fax" by ship stations, coupled with a freeze on assignments of the listed frequencies to coast stations, in order to address what it deems an insufficiency in the spectrum available for ship facsimile communications.²²⁴ With respect to Section 80.371, which describes the frequencies available for radiotelephony public correspondence, Globe Wireless views both the allotment of discrete frequencies for each coastal region²²⁵ and continued reliance on Appendix 25 of the international *Radio Regulations*²²⁶ as anachronisms, urging that the Commission instead rely on

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Comments at 2-3 (contending that it would be premature to authorize the recommended operations at this stage in the development of technical parameters and regulations for cognitive radio technology).

²¹⁶ See Globe Wireless Comments at 2.

²¹⁷ See 47 C.F.R. §§ 80.355, 80.357.

²¹⁸ See RTCM Comments at 18.

²¹⁹ See *Report and Order*, 17 FCC Rcd at 6760-61 ¶ 45.

²²⁰ *Id.* (stating that the Commission "will take a conservative approach and retain these frequencies with the recognition that this provision may be ripe for review and elimination in conjunction with the next biennial regulatory review").

²²¹ In fact, the Commission has recently authorized a new station specifically intended for Morse radiotelegraphy operations. See License for Station KSM, granted March 5, 2005, to Maritime Radio Historical Society, Inc.

²²² See 47 C.F.R. §§ 80.357(b)(1), 80.363(a)(2).

²²³ 47 C.F.R. §§ 80.363, 80.371. Globe Wireless also comments with respect to the private coast station frequencies set forth in Section 80.373 of the Rules, 47 C.F.R. § 80.373, that "[t]he demand for these frequencies should be re-evaluated." Globe Wireless Comments at 3. Globe Wireless does not explain why or how the demand for these frequencies should be reassessed, or what action, if any, the Commission should take if it concludes (as Globe Wireless presumably thinks it may) that there is little demand for spectrum for private communications. We do not believe that requests or suggestions of such vagueness are sufficient predicates for Commission action.

²²⁴ See Globe Wireless Comments at 2. Globe Wireless also suggests that the reference to a 3 kHz bandwidth in Section 80.363(a)(2), 47 C.F.R. § 80.363(a)(2), be eliminated as "irrelevant" because many different bandwidths are used in these bands, especially by military operations. See Globe Wireless Comments at 3.

²²⁵ See 47 C.F.R. § 80.371(a).

²²⁶ See 47 C.F.R. § 80.371(b)(1).

“general principles of non-interference” in assigning public correspondence frequencies.²²⁷ We received no comments pertaining to these recommendations, and we conclude that there is an insufficient record to adopt any of these recommendations at this time. However, we recognize that there may be a need to provide additional channels for ship station facsimile communications, and we request comment in the *Third Further Notice, infra*, as to whether additional spectrum, perhaps spectrum currently designated for unused or underused voice channels, should be made available for that purpose.²²⁸

51. *Additional Proposals.* As noted above, the Commission requested comment in the *Second Further Notice* not only on the Globe Wireless Comments but also on some additional changes to the Part 80 Rules that the Commission believed may be warranted as “housekeeping” measures.²²⁹ First, the Commission questioned whether note 5 to Section 80.207(d) of the Commission’s Rules²³⁰ can be deleted as obsolete because the note grandfathers certain transmitters manufactured prior to December 31, 1969, and such transmitters are not likely to still be in use.²³¹ Second, the Commission observed that tables of frequencies in Sections 80.207(d) and 80.313 of the Rules²³² include entries for the frequency band 1605-27500 kHz, but that the only maritime mobile operations permitted in the broadcast AM expanded band, 1605-1705 kHz, are those authorized pursuant to footnote US299 of the Table of Frequency Allocations, which does not encompass 1605-1615 kHz.²³³ The Commission therefore proposed to amend those rules to list 1615 kHz as the low end of the band.²³⁴ Finally, the Commission proposed to further revise the Section 80.207(d) table by removing the listing of the 14.00-14.05 GHz band for ship radiodetermination use because there are no current or planned radionavigation operations in the band.²³⁵ RTCM, the only commenter addressing these proposals, states that it has no objection to any of them.²³⁶ We therefore amend these rules for the reasons discussed in the *Second Further Notice*.²³⁷

²²⁷ See Globe Wireless Comments at 3. Although Globe Wireless says Appendix 25 “is no longer relevant,” *id.*, it remains that Appendix 25 is still in effect. For this reason, the Commission rejected a similar proposal in 2002. See Amendment of the Commission’s Rules Concerning Maritime Communications, *Second Memorandum Opinion and Order and Fifth Report and Order*, PR Docket No. 92-257, 17 FCC Rcd 6685, 6712-13 ¶ 62 (2002). Globe Wireless has not set forth any changed circumstances warranting reconsideration of this approach.

²²⁸ See para. 72, *infra*. We also invite comment in the *Third Further Notice* on whether to permit the transmission of data over maritime VHF voice channels. *Id.*

²²⁹ See *Second Further Notice*, 19 FCC Rcd at 3165 ¶ 88.

²³⁰ See 47 C.F.R. § 80.207(d), n.5.

²³¹ See *Second Further Notice*, 19 FCC Rcd at 3165 ¶ 88.

²³² See 47 C.F.R. §§ 80.207(d), 80.313.

²³³ See 47 C.F.R. § 2.106 n.US299 (providing that “[t]he 1615-1705 kHz band in Alaska is also allocated to the maritime mobile services and the Alaska fixed service on a secondary basis to Region 2 broadcast operations.”).

²³⁴ See *Second Further Notice*, 19 FCC Rcd at 3165 ¶ 88.

²³⁵ *Id.* The Commission noted that it had recently proposed to remove the unused radionavigation allocation of the 14.00-14.05 GHz band from the Part 87 rules governing the Aviation Radio Service, and tentatively concluded that it should make that same change to the Part 80 rules. See Review of Part 87 of the Commission’s Rules Concerning the Aviation Radio Service, *Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 01-289, 18 FCC Rcd 21432 ¶ 85 (2003) (proposing to remove the reference to the 14000-14400 MHz band in 47 C.F.R. § 87.187(x) and to also remove from the Table of Frequency Allocations, 47 C.F.R. § 2.106, the allocation for radionavigation in the 14000-14200 MHz band).

²³⁶ See RTCM Comments at 18-19.

²³⁷ That is, we delete note 5 to Section 80.207(d) as obsolete because it grandfathers transmitters that are no longer in use; amend Sections 80.207(d) and 80.313 by replacing references to the 1605-27500 kHz band with references to the 1615-27500 kHz band, because maritime mobile operations are not permitted on the AM expanded band

(continued...)

H. Other Matters.

52. In the course of reviewing the Part 80 rules and the comments filed in this proceeding, several regulatory discrepancies, obsolete rules and typographical errors were identified by Commission staff or have otherwise come to our attention.²³⁸ We hereby adopt corrective amendments. These amendments are not substantive and do not impose a new compliance burden on any entity. We discuss these amendments below.²³⁹

53. *Federal Government Ship Stations.* Section 80.15(d)(4) of the Commission's Rules provides that a ship station license may be issued by the Commission to "[a]ny agency of the U.S. Government subject to section 301 of the Communications Act."²⁴⁰ Prior to 1996, Section 305(b) of the Communications Act of 1934, as amended, provided that "[r]adio stations on board vessels of the Maritime Administration of the Department of Transportation or the Inland and Coastwise Waterways Service shall be subject to the provisions of this subchapter."²⁴¹ However, this statutory provision was deleted in the Telecommunications Act of 1996.²⁴² Accordingly, the Commission no longer has jurisdiction over any Federal Government-owned ship radio stations, and Section 80.15(d)(4) of the Commission's rules is, as a consequence, obsolete. We therefore delete Section 80.15(d)(4).

54. *Exemption from Equipment Certification Requirements for Certain Vessels in the Maritime Security Fleet.* On November 24, 2003, the President signed into law the National Defense Authorization Act for Fiscal Year 2004.²⁴³ Among other things, this statute directs the Secretary of Transportation, in consultation with the Secretary of Defense, to establish a Maritime Security Fleet, "a fleet of active, commercially viable, militarily useful, privately owned vessels to meet national defense

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frequencies below 1615 kHz; and remove the ship radiodetermination designation of the 14.00-14.05 GHz band from Section 80.207(d) in light of the absence of any current or anticipated radionavigation use of the band.

²³⁸ Some of these problems, and proposed remedial amendments, were brought to the Commission's attention by parties filing comments in a separate proceeding to review certain Commission rules pursuant to the Regulatory Flexibility Act. See FCC Seeks Comment Regarding Possible Revision or Elimination of Rules Under the Regulatory Flexibility Act, 5 U.S.C. § 610, *Public Notice*, 17 FCC Rcd 16562 (2002), *corrected by erratum*, 17 FCC Rcd 16797 (2002). The statute requires federal agencies to undertake a periodic review of rules "which have or will have a significant economic impact upon a substantial number of small entities." See 5 U.S.C. § 610(a).

²³⁹ In addition to the revisions discussed below, we take this opportunity to correct minor typographical errors in Sections 80.207(d), 80.371(a), 80.373(a)(1), 80.373(g), and 80.1125(j)(6), 47 C.F.R. §§ 80.207(d), 80.371(a), 80.373(a)(1), 80.373(g), 80.1125(j)(6), and to change any remaining references to 406.025 MHz EPIRBs to 406.0-406.1 MHz EPIRBs. See *Report and Order*, 17 FCC Rcd at 6774 ¶ 85 (concluding that the EPIRBs in question are more accurately referred to as 406.0-406.1 MHz EPIRBs in light of their ability to operate on multiple frequencies within that band). The remaining references to 406.025 MHz EPIRBs are in Sections 80.203(h), 80.207(d), 80.211(e), and 80.1061(e) of the Commission's Rules, 47 C.F.R. §§ 80.203(h), 80.207(d), 80.211(e), 80.1061(e). We also amend Section 80.905 of the Rules, 47 C.F.R. § 80.905, to clarify, in keeping with the clear intent of the *Second Report and Order*, 19 FCC Rcd at 3138 ¶ 33 & n.133, that the DSC equipment that small passenger vessels will have to carry one year after the Coast Guard establishes shore-based coverage of Sea Areas A1 and A2 must meet the standards generally applicable to such equipment, as incorporated by reference in Section 80.1101(c)(2)-(4), 47 C.F.R. § 80.1101(c)(2)-(4). Finally, we amend Section 13.7(b) of the Commission's Rules, 47 C.F.R. § 13.7(b), to correct a previous oversight by adding the GMDSS Radio Operator/Maintainer License to the list of commercial radio operator licenses.

²⁴⁰ See 47 C.F.R. § 80.15(d).

²⁴¹ See 47 U.S.C. § 305(b) (1995).

²⁴² See Pub. L. 104-104, 110 Stat. 56, § 403(h)(1).

²⁴³ See Pub. L. 108-136, 117 Stat. 1392 (2003).

and other security requirements and maintain a United States presence in international commercial shipping.”²⁴⁴ The Maritime Security Fleet is to be comprised of privately-owned, United States-documented vessels,²⁴⁵ and the owner or operator of each vessel to be included in the Maritime Security Fleet must enter into an operating agreement with the Secretary of Transportation.²⁴⁶ That operating agreement is to include an Emergency Preparedness Agreement making the subject vessel and vessel-related resources available to the Federal Government “upon a request by the Secretary of Defense during time of war or emergency.”²⁴⁷ Of particular relevance to the Part 80 rules is a provision of the statute that effectively exempts from the Commission’s equipment certification requirements certain vessels that have been redocumented under the laws of the United States in order to be included in the Maritime Security Fleet.²⁴⁸ To reflect this statutory provision in our rules, we amend Section 80.43, which currently requires maritime radio transmitters to be authorized by the Commission based on compliance with Part 80 technical requirements.²⁴⁹ Specifically, we amend Section 80.43 to exempt from its reach those vessels in the Maritime Security Fleet that are deemed to satisfy all Commission equipment certification requirements pursuant to Section 53108(c) of Title 46 of the United States Code.

55. *Ship Earth Station Document Requirements.* Section 80.51 of the Commission’s Rules specifies that a ship earth station authorized to operate in the INMARSAT space segment must display the Commission’s license “in conjunction with the commissioning certificate issued by the INMARSAT organization.”²⁵⁰ INMARSAT, however, no longer issues commissioning certificates. As a result, the reference to INMARSAT commissioning certificates is obsolete and potentially confusing. We also believe that, given the existence of other satellite systems offering maritime mobile satellite service, the license display requirement should be generic, rather than INMARSAT-specific, and we therefore amend Section 80.51 to simply state that a ship earth station must display the Commission license.

56. *Implementation of U.S./Canada Agreement.* Section 80.57 of the Commission’s Rules implements an agreement between the United States and Canada regarding the assignment of VHF

²⁴⁴ *Id.* at § 3531; 46 U.S.C. § 53102(a). All of the relevant statutory provisions discussed here were adopted in Section 3531 of the statute, and have been codified in Title 46 of the United States Code. For convenience, we will cite only to the codified provisions in the remainder of this discussion.

²⁴⁵ See 46 U.S.C. § 53102(a). Documentation and redocumentation refer to the process by which the Coast Guard issues Certificates of Documentation to vessels as evidence of the vessel’s nationality and verification of the chain of title. The Coast Guard assigns official numbers to documented vessels. See 46 C.F.R. § 67.111.

²⁴⁶ See 46 U.S.C. § 53103(a).

²⁴⁷ See 46 U.S.C. § 53107.

²⁴⁸ See 46 U.S.C. § 53108(c). Section 53108(c) states in full:

(c) TELECOMMUNICATIONS EQUIPMENT. – The telecommunications and other electronic equipment on an existing vessel that is redocumented under the laws of the United States for operation under an operating agreement under this chapter shall be deemed to satisfy all Federal Communications Commission equipment certification requirements, if –

(1) such equipment complies with all applicable international agreements and associated guidelines as determined by the country in which the vessel was documented immediately before becoming documented under the laws of the United States;

(2) that country has not been identified by the Secretary as inadequately enforcing international regulations as to that vessel; and

(3) at the end of its useful life, such equipment will be replaced with equipment that meets Federal Communications Commission equipment certification standards.

²⁴⁹ See 47 C.F.R. § 80.43.

²⁵⁰ See 47 C.F.R. § 80.51.

frequencies to public coast stations in specified areas.²⁵¹ Section 80.57(d)(5) specifies a long-expired deadline for compliance with the arrangement, and provides an exemption from that deadline to specified U.S. public coast stations that no longer exist.²⁵² We therefore delete Section 80.57(d)(5) as obsolete.

57. *INMARSAT Ship Earth Stations.* Section 80.203(g) of the Commission's Rules prescribes requirements for applicants seeking authorization of earth ship station transmitters intended for use in the INMARSAT space segment.²⁵³ The rule states in part that such equipment "must be verified in accordance with the technical requirements provided by INMARSAT and must be type approved by INMARSAT for use in the INMARSAT space segment."²⁵⁴ However, although INMARSAT grants ship earth stations approval to access INMARSAT space segment, it no longer tests and approves the equipment. We accordingly amend Section 80.203(g) to specify that the subject equipment must be approved for use in the INMARSAT space segment by a notified body²⁵⁵ in accordance with technical requirements provided by INMARSAT. We also amend Section 80.1103(c) of the Rules for the same reason.²⁵⁶

58. *Alternative Carrier Frequencies.* The ITU *Radio Regulations* were amended at WRC-03²⁵⁷ to specify that the alternative carrier frequencies 12359 kHz and 16537 kHz may be used by ship stations and coast stations for calling on a simplex basis, provided that the peak envelope power does not exceed 1 kW.²⁵⁸ The frequency 12359 kHz is listed in Section 80.373(c) of the Rules as a simplex channel assignable to private coast stations,²⁵⁹ and the frequency 16537 kHz is listed in Section 80.371(b)(2) of the rules as a simplex channel assignable to public coast stations and available for use by authorized ship stations for transmissions to coast stations.²⁶⁰ We add a footnote to each of these rules to reflect the ITU provision pertaining to 12359 kHz and 16537 kHz.

59. *Frequencies for Automated Systems.* Section 80.385(d) of the Commission's rules describes the carrier frequencies assignable to automated multi-station systems in the Great Lakes.²⁶¹ However, there are no stations licensed to use these frequencies pursuant to Section 80.385(d), and these frequencies are no longer assignable to automated multi-station systems because they have been licensed

²⁵¹ See 47 C.F.R. § 80.57; Exchange of Notes Between the Government of the United States of America and the Government of Canada Concerning the Coordination and Use of Radio Frequencies Above 30 Megacycles per Second, Attachments A through F (Oct. 24, 1962).

²⁵² See 47 C.F.R. § 80.57(d)(5). The U.S. public coast stations listed in the rule are Stations KOH627, Tacoma, Washington, KOH630, Seattle, Washington, and WXY956, Camano, Washington.

²⁵³ See 47 C.F.R. § 80.203(g).

²⁵⁴ *Id.*

²⁵⁵ Notified bodies are European Union government-designated laboratories and testing organizations that are authorized to make determinations as to whether products comply with specified safety standards, a process termed conformity assessment.

²⁵⁶ See 47 C.F.R. § 80.1103(c). Section 80.1103(c) currently specifies that applicants for authorization of GMDSS equipment must submit, *inter alia*, "a copy of the INMARSAT type approval certification indicating that equipment meets GMDSS standards..." To reflect that INMARSAT does not itself issue such certifications, we simply remove the modifier "INMARSAT" from the sentence.

²⁵⁷ See ITU Resolution 352 (WRC-03).

²⁵⁸ See ITU *Radio Regulations*, Edition of 2004, § 52.221A.

²⁵⁹ See 47 C.F.R. § 80.373(c). The frequency 12359 kHz is widely authorized as a common working frequency for private coast stations.

²⁶⁰ See 47 C.F.R. § 80.371(b)(2).

²⁶¹ See 47 C.F.R. § 80.385(d).

to VHF public coast station geographic licensees pursuant to Section 80.371(c)(1).²⁶² We therefore delete Section 80.385(d).

60. *VHF Maritime Channels 75 and 76.* In the *Second Report and Order*, the Commission redesignated VHF maritime Channels 75 (156.775 MHz) and 76 (156.825 MHz), which previously had been designated as guard bands for Channel 16 (156.800 MHz), to be used for port operations.²⁶³ The Commission amended Section 80.373(f) of the Rules²⁶⁴ to reflect the redesignation of Channels 75 and 76, but neglected to also modify the table of frequencies in Section 80.871(d) of the Rules.²⁶⁵ As a consequence, Section 80.871(d) still indicates that Channels 75 and 76 are guard bands. We rectify that omission here, and modify the table of frequencies accordingly.

61. *General small passenger vessel exemptions.* Section 80.933 of the Commission's Rules exempts certain classes of small passenger vessels from specified equipment requirements.²⁶⁶ We remove Section 80.933(c), which provides for a conditional exemption from certain equipment requirements, as redundant with Section 80.905.²⁶⁷ In addition, we remove Section 80.933(d) as obsolete because it provides an exemption that, by its terms, expired on February 1, 1999.²⁶⁸

62. *GMDSS Implementation.* The GMDSS equipment carriage requirements generally were phased in over the period from February 1, 1992 to February 1, 1999.²⁶⁹ Section 80.1065 of the Commission's Rules provides a timetable for vessels to come into compliance with the GMDSS requirements.²⁷⁰ The most recent compliance deadline listed in the rule is February 1, 1999. We therefore amend Section 80.1065 to remove all references to the expired deadlines.²⁷¹

63. *Fishing Vessel Exemption.* Section 80.1071(c) of the Commission's rules exempts fishing vessels of 300 gross tons and upward from the Subpart W GMDSS requirements pertaining to VHF-DSC and MF-DSC equipment, provided that those vessels remain within communications range of coast stations operating on maritime VHF Channel 16 (with respect to VHF-DSC) or the frequency 2182 kHz (with respect to MF-DSC),²⁷² until one year after the Coast Guard establishes GMDSS coast facilities for Sea Areas A1 and A2, respectively, if certain requirements are met.²⁷³ Section 80.1071(c)(1) requires,

²⁶² See 47 C.F.R. § 80.371(c)(1).

²⁶³ See *Second Report and Order*, 19 FCC Rcd at 3133-34 ¶ 25.

²⁶⁴ See 47 C.F.R. § 80.373(f).

²⁶⁵ See 47 C.F.R. § 80.871(d).

²⁶⁶ See 47 C.F.R. § 80.933.

²⁶⁷ Compare 47 C.F.R. § 80.905 with 47 C.F.R. § 80.933(c).

²⁶⁸ See 47 C.F.R. § 80.933(d).

²⁶⁹ See para. 5, *supra*.

²⁷⁰ See 47 C.F.R. § 80.1065.

²⁷¹ Specifically, we delete Section 80.1065(a) and delete all paragraphs in Section 80.1065(b) other than the introductory paragraph.

²⁷² We remind fishing vessel operators that the exemption is available only for vessels that remain within the specified communications ranges, and that vessels that, for example, travel in Sea Area A3, outside such range and generally more than one hundred nautical miles from shore, are not permitted to avail themselves of the exemption. Such vessels, therefore, must be fitted with the full complement of required GMDSS equipment in the absence of an individual exemption.

²⁷³ See 47 C.F.R. § 80.1071(c); see also Waiver of Certain Global Maritime Distress and Safety System (GMDSS) Rules Applicable to Fishing Vessels and Small Passenger Vessels, *Order*, 14 FCC Rcd 528, 534 ¶ 11 (1998); *Report and Order*, 17 FCC Rcd at 6748 ¶ 10 n.26 (emphasizing that this exemption relieves the subject fishing vessels only

(continued...)

as a condition of the exemption, that the subject fishing vessels carry, among other things, a VHF radiotelephone installation meeting the requirements of Section 80.1101(c)(2) and an MF or HF radiotelephone installation meeting the requirements of Section 80.1101(c)(3) and (4).²⁷⁴ However, the cross-referenced provisions of Section 80.1101(c) incorporate by reference international standards that mandate DSC capability.²⁷⁵ As currently crafted, then, the rules mandate that the subject fishing vessels carry DSC equipment in order to be relieved of the requirement to carry such equipment. We correct this anomaly by removing the cross-references to Sections 80.1101(c)(2)-(4).

64. *GMDSS Radio Operator Requirements.* Section 80.1073(a) of the Commission's Rules requires vessels subject to the GMDSS requirements to carry at least two persons holding GMDSS Radio Operator's Licenses.²⁷⁶ It cross-references two rules in Part 13, Sections 13.2 and 13.21, that no longer exist.²⁷⁷ We amend Section 80.1073(a) by inserting the appropriate cross-references, to Sections 13.7 and 13.203, respectively.²⁷⁸

65. *Survival Craft Equipment.* Section 80.1095 of the Commission's Rules sets forth the requirements for survival craft equipment applicable to GMDSS-participating vessels.²⁷⁹ The last sentence of Section 80.1095(a) grandfathers some non-compliant two-way VHF radiotelephone equipment until February 1, 1999.²⁸⁰ Given the length of time that has passed since February 1, 1999, we delete the last sentence of Section 80.1095(a) as obsolete.

66. *References to Type Acceptance.* Several Part 80 rules still refer to "type acceptance" of equipment. However, the equipment authorization process formerly known as type acceptance was combined with the equipment authorization process known as certification in 1998, with the combined process termed certification.²⁸¹ Accordingly, we replace all obsolete Part 80 references to "type acceptance" with references to "certification."²⁸²

67. *INMARSAT-E EPIRBs.* Among the rule amendments adopted by the Commission in the

(...continued from previous page)

of the requirements to carry VHF-DSC and MF-DSC equipment and does not relieve them of any other applicable GMDSS requirements concerning, for example, reserve power, VHF handheld radios, MF/HF radiotelephone, INMARSAT-C equipment, and satellite or HF-DSC equipment).

²⁷⁴ See 47 C.F.R. § 80.1071(c)(1)(i)-(ii).

²⁷⁵ See 47 C.F.R. § 80.1101(c)(2)-(4).

²⁷⁶ See 47 C.F.R. § 80.1073(a).

²⁷⁷ Sections 13.2 and 13.21 were removed when Part 13 was reorganized in its entirety in 1993. See Amendment of Part 13 of the Commission's Rules to Privatize the Administration of Examinations for Commercial Operator Licenses and to Clarify Certain Rules, *Report and Order*, FO Docket No. 92-206, 8 FCC Rcd 1046 (1993).

²⁷⁸ See 47 C.F.R. §§ 13.7, 13.203.

²⁷⁹ See 47 C.F.R. § 80.1095.

²⁸⁰ See 47 C.F.R. § 80.1095(a). The grandfathering protection extended to two-way VHF radiotelephone equipment that was "provided on board ships" prior to February 1, 1992, provided that such equipment was compatible with equipment compliant with the GMDSS requirements.

²⁸¹ See Amendment of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment, *Report and Order*, ET Docket No. 97-94, 13 FCC Rcd 11415, 11419-20 ¶ 10 (1998).

²⁸² Specifically, we amend 47 C.F.R. §§ 80.123(d), 80.203(n), 80.271(e), 80.1083(d). Other references to type acceptance, such as that in 47 C.F.R. § 80.123(a), are not changed because the context makes clear that the reference is to an equipment approval process used years ago.

Second Report and Order were several authorizing the use of INMARSAT-E EPIRBs.²⁸³ Although no party has filed a petition for reconsideration of the *Second Report and Order*, there is a need to revisit the question of whether INMARSAT-E EPIRBs should be authorized, because, as more fully discussed in the *Third Further Notice*, Inmarsat has announced that it will cease providing service to such EPIRBs on December 1, 2006. Given the prospective cessation of INMARSAT-E EPIRB service, we propose in the *Third Further Notice* to add a sunset date of December 1, 2006 to Section 80.1063 and to the other Part 80 provisions authorizing the use of INMARSAT-E EPIRBs.²⁸⁴ We are not making these changes immediately in order to allow notice and comment before terminating the authorization of INMARSAT-E EPIRBs, but in the interim we strongly discourage vessel operators from installing new INMARSAT-E EPIRBs, given their imminent obsolescence. We are adding a note to the rules authorizing INMARSAT-E EPIRBs to advise persons of the scheduled termination of INMARSAT-E EPIRB service.²⁸⁵ In addition, we caution any parties that may seek Commission certification of INMARSAT-E EPIRBs that the Commission will closely scrutinize any such applications, and may condition, limit, or even deny any such applications if necessary to ensure that mariners do not rely on such devices for their safety after December 1, 2006.

V. THIRD FURTHER NOTICE OF PROPOSED RULE MAKING

A. INMARSAT-E Earth Stations

68. As noted above, after the release of the *Second Report and Order*, Inmarsat informed the International Mobile Satellite Organization, a unit of the IMO, that it had decided to cease providing INMARSAT-E EPIRB service as of December 1, 2006.²⁸⁶ In light of this development, the Coast Guard and NTIA have recommended²⁸⁷ that we revisit the rules adopted in the *Second Report and Order* authorizing INMARSAT-E EPIRBs.²⁸⁸ We agree that there is a need to revisit the rules authorizing INMARSAT-E EPIRBs in light of this intervening development, and we accordingly propose to amend the relevant Part 80 Rules to prohibit any further certification, manufacture, importation, or installation of INMARSAT-E EPIRBs, and to permit continued use of deployed INMARSAT-E EPIRBs only until

²⁸³ See *Second Report and Order*, 19 FCC Rcd at 3137-38 ¶¶ 30-31. EPIRBs are small, battery powered transmitters carried on ships for the purpose of sending a distress signal in an emergency. The requirements for INMARSAT-E EPIRBs currently are set forth in Section 80.1063 of the Commission's Rules, 47 C.F.R. § 80.1063.

²⁸⁴ See para. 68, *infra*.

²⁸⁵ Since this note is for purely informational purposes, and does not change the rule or modify any substantive requirement, there is no impediment to adding the note immediately, without further public notice or comment. See 5 U.S.C. § 553. Relatedly, we also make a nonsubstantive change to Section 80.1051 of the Commission's Rules, 47 C.F.R. § 80.1051, so that the rule simply states that subpart V of Part 80 "describes the technical and performance requirements for EPIRB stations," instead of listing the particular classes of EPIRB stations covered by subpart V. Among other things, this will obviate the need to amend the rule in the future every time a new class of EPIRB is authorized or is removed from subpart V.

²⁸⁶ See IMO MSC 79/22/7, "GMDSS – Future viability of the L-band EPIRB system" (Sept. 16, 2004). Inmarsat indicated that after almost eight years of one hundred percent operational availability, fewer than one hundred INMARSAT-E EPIRBs had been fitted on SOLAS ships. *Id.* at para. 5. Inmarsat also committed to provide all existing users of the L-band EPIRBs with replacement 406.0-406.1 MHz EPIRBs, with GPS capability, free of charge. *Id.* at para. 13.

²⁸⁷ See Memorandum dated Nov. 17, 2004, from Joseph D. Hersey, Jr., USCG, to Executive Secretary, IRAC [Interdepartmental Radio Advisory Committee], and Letter dated Dec. 7, 2004, from Frederick R. Wentland, Associate Administrator, Office of Spectrum Management, NTIA, to Marlene H. Dortch, Secretary, FCC, both submitted under cover of Letter dated Dec. 7, 2004, from Kathy D. Smith, Chief Counsel, NTIA, to Marlene H. Dortch, Secretary, FCC.

²⁸⁸ See *Second Report and Order*, 19 FCC Rcd at 3137 ¶ 30.

December 1, 2006. Interested parties are asked to comment on this proposal.

B. GPS Requirement for VHF-DSC Handheld Equipment

69. The Coast Guard recommends that VHF handheld radios fitted with DSC include an integral GPS capability, to ensure that distress calls to the Coast Guard include accurate location information.²⁸⁹ The Coast Guard says that the inclusion of accurate location information with distress calls is vital to the rapid rescue of persons in distress.²⁹⁰ In addition, the Coast Guard observes that connecting a VHF handheld unit to an external GPS unit is not always practical, but that the cost of including integral GPS capability in a VHF handheld radio has become very low, and the GPS antenna-fitting problems inherent in a fixed GPS unit do not exist with a handheld unit.²⁹¹ “In fact,” the Coast Guard adds, “DSC-equipped handhelds with an integral GPS are now on the market at competitive prices.”²⁹²

70. We invite comment on this Coast Guard recommendation to require that VHF-DSC handheld equipment include GPS capability. We request that commenters address both the potential safety benefits of adding GPS capability to VHF-DSC handheld units²⁹³ and the incremental costs to manufacturers and consumers of such a requirement. Commenters are asked to address in particular the extent to which such a requirement might impose a significant burden on small entities, and should consider whether there are means by which the Commission could reasonably limit or minimize any such burden. In that vein, commenters are asked whether the Commission, if it does adopt this requirement, should provide a phase-in period, *i.e.*, an additional period of time before the Commission would cease certifying non-GPS VHF-DSC handheld equipment, and/or grandfathering protection, *i.e.*, a period of time during which existing, non-compliant VHF-DSC handheld units could continue to be used.

C. Carriage Requirements for Small Passenger Vessels

71. In the *Third Report and Order, supra*, we have extended the Section 80.917 requirement for a reserve power supply to additional classes of small passenger vessels, but determined that, on the basis of the existing record, the reserve power supply requirement should not be imposed on *all* small passenger vessels.²⁹⁴ Pursuant to Section 80.917, as amended herein, the reserve power supply requirement does not apply to small passenger vessels of less than one hundred gross tons that carry no more than 150 passengers, have overnight accommodations for no more than forty-nine persons, do not operate on the high seas, and do not operate more than three miles from shore on Great Lakes voyages. Such vessels were exempted from the reserve power supply requirement based on the conclusion, endorsed by the Coast Guard, that the requirement should be imposed only on those vessels for which the safety benefits would be commensurate with the compliance costs. There is little question, however, that the safety of all small passenger vessels would be enhanced by having a reserve power supply or at least some other means of maintaining communications with search and rescue personnel in the event of an at-sea incident which results in disruption of the vessel’s main power source. Accordingly, we request comment on whether we should impose a requirement for carriage of at least one VHF handheld marine

²⁸⁹ See USCG Comments at 1.

²⁹⁰ *Id.*

²⁹¹ *Id.* at 1-2.

²⁹² *Id.* at 2.

²⁹³ With respect to the safety benefits of the proposed requirement, we encourage commenters to provide information on the frequency with which DSC distress calls currently are transmitted with incorrect geographic coordinates, and the impact that such inaccuracies have on search and rescue operations.

²⁹⁴ See paras. 34-39, *supra*.

radio transceiver on any small passenger vessel that does not have a reserve power source. Our understanding is that such devices are available for under fifty dollars at retail, and so should impose a significantly less onerous financial burden on small passenger vessel owners and operators than installation and maintenance of reserve power supply.²⁹⁵ We ask that commenters address the safety benefits and economic costs of imposing this requirement. Commenters may also suggest alternatives to mandatory carriage of a VHF handheld radio transceiver that would meet the objective of ensuring that the ability of any small passenger vessel to communicate with search and rescue personnel could survive a disruption of the vessel's main power.

D. Ship Station Facsimile Frequencies/Transmission of Data on Voice Channels

72. In the *Third Report and Order, supra*, we decline to adopt a Globe Wireless recommendation to amend Section 80.363 of the Rules²⁹⁶ to address a perceived need for additional spectrum for ship station facsimile communications because the existing record does not support such an amendment.²⁹⁷ However, we now wish to provide interested parties with another opportunity to consider whether there is, in fact, a need to allot additional frequencies for ship station facsimile use or to otherwise adopt measures to better ensure that adequate spectrum is available for that purpose. Commenters should explain whether and why they believe there is an unmet demand by vessels for additional facsimile communications capacity, assess whether there may be an imbalance in the spectrum resources available to coast stations and ship stations for facsimile communications, and suggest remedial measures. We ask, in particular, whether there are unused or underused voice channels that might be made available for ship facsimile use. As a further measure to promote more efficient use of possibly unused or underused voice channels, and to meet the growing need for marine data communications capabilities generally, we invite commenters to address whether the Commission should adopt rules permitting transmission of data over maritime VHF voice channels. Commenters supporting such a rule should, at minimum, address the safeguards that would need to be adopted to ensure that there is no interference to voice communications, and that there is not an unintended *de facto* reallocation of those channels from voice to data communications.

E. Private Coast Station Frequencies

73. Section 80.511 of the Commission's Rules limits the frequencies that may be assigned to private coast stations or marine utility stations.²⁹⁸ Specifically, Section 80.511 provides that, absent a "showing of need," only one port operation, one commercial and one non-commercial frequency will be assigned to a private coast station or marine utility station.²⁹⁹ We question whether the current level of demand for private coast station frequencies warrants retention of this limitation of the assignment of

²⁹⁵ We emphasize that our intention here is to consider only the imposition of a VHF handheld radio carriage requirement for small passenger vessels that are not subject to the reserve power supply requirement set forth in Section 80.917, as amended herein, and do not install a reserve power source voluntarily. We are not requesting comment on whether to relax the reserve power supply requirement for any classes of small passenger vessels, or on whether to impose a VHF handheld radio carriage requirement on vessels that do have a reserve power supply.

²⁹⁶ See 47 C.F.R. § 80.363.

²⁹⁷ See para. 50, *supra*.

²⁹⁸ See 47 C.F.R. § 80.511.

²⁹⁹ See 47 C.F.R. § 80.511(a). The rule also prescribes what that showing must consist of, effectively restricting the possibility of acquiring additional channels to applicants who service vessels or who can demonstrate significant congestion on the assigned frequency. See 47 C.F.R. § 80.511(b)-(c). In addition, Section 80.373(b)(2)(i) of the Commission's Rules, 47 C.F.R. § 80.373(c)(2)(i), limits private coast stations to no more than one frequency per frequency band.

private coast frequencies,³⁰⁰ particularly given that these frequencies are licensed on a shared, non-exclusive basis.³⁰¹ We therefore request comment on whether limits on the number of frequencies that can be assigned to a private coast station should be relaxed or eliminated.

F. Radar Standards

74. Section 80.273 of the Commission's Rules contains the technical requirements for radar equipment installed on ships.³⁰² In its comments to the *Second Further Notice*, RTCM contends that this rule needs to be completely revised to incorporate by reference IMO and IEC radar standards that have superseded the standards referenced in the current rule.³⁰³ RTCM offers a specific proposal for rewriting Section 80.273.³⁰⁴ We recognize the need to ensure that Section 80.273 is up to date. In the *Third Report and Order*, we accordingly revise Section 80.273 to incorporate by reference most of the standards recommended by RTCM.³⁰⁵ However, we decline to immediately amend the rule to incorporate by reference the IEC performance standards and testing methods for shipborne radar, IEC 62252 and IEC 60936, as also proposed by RTCM, because we believe requiring compliance with those standards may impose significant new requirements for radar installations. We note, for example, that adoption of RTCM's proposal in this regard would impose carriage requirements and minimum standards for radar equipment on vessels of less than 500 gross tons.³⁰⁶ To date, however, the Commission has not imposed requirements pertaining to radar equipment on such relatively small vessels, so adoption of RTCM's proposal could impose a significant new compliance burden on entities formerly exempt from ship radar requirements. In addition, it does not appear that compliance with IEC 62252 and IEC 60936 is mandated internationally.³⁰⁷ For these reasons, and given that RTCM's proposal responds to a very general request for recommendations on updating the Part 80 references to international standards, we believe the prudent course would be to augment the record with additional comment pertaining specifically to the question of whether the Commission should incorporate by reference IEC 62252 and IEC 60936. We accordingly invite interested parties to address this issue. We ask that commenters consider, in particular, whether mandating compliance with these IEC standards could impose significant additional costs or burdens on the manufacturers and users of radar equipment. Finally, we note that IMO Resolution A.820(19), "Performance Standards for Navigational Radar Equipment for High-Speed Craft," (adopted 23 November 1995), might also be appropriately incorporated by reference into the Part 80 Rules, notwithstanding that no commenter has recommended such action. We therefore request that interested parties also consider whether the Commission should also include IMO Resolution A.820(19) in Section

³⁰⁰ We note that Globe Wireless has suggested that the Commission re-evaluate the demand for private coast frequencies. *See* n.223, *supra*, (citing Globe Wireless Comments at 3).

³⁰¹ *See* 47 C.F.R. § 80.373(c)(2)(i).

³⁰² *See* 47 C.F.R. § 80.273.

³⁰³ RTCM Comments at 11-12.

³⁰⁴ *Id.* at 12-14. RTCM proposes the following standards for inclusion in Section 80.273: (a) IMO Resolution MSC.64(67) Annex 4, "Recommendation on performance standards for radar"; (b) IEC 60936 part 1 (2000-08), "Shipborne Radar – Performance Requirements – Methods of testing and required results;" (c) IEC 60936 part 2 (1998-10); (d) Appendix S3 of the international *Radio Regulations* and ITU SM 1177; and (d) IEC 62252 (2004), "Radar for craft not in compliance with IMO SOLAS Chapter V – Performance requirements, methods of test and required test results." *Id.* at 13-14. RTCM also proposes additional requirements beyond those that are contained in the international standards. *Id.* at 13 (proposed Section 80.273(c)).

³⁰⁵ *See* para. 45 & n.196, *supra*.

³⁰⁶ *See* RTCM Comments at 14.

³⁰⁷ It appears, for example, that the only provision of IEC 60936 that has been mandated by the IMO requires, in general terms, that operational controls "be accessible and easy to identify and use." *See* IMO Resolution MSC.64(67) Annex 17 at § 3.13.2 (1996).

80.273 of the Rules.

G. Testing of GMDSS Radio Equipment

75. We propose to add a rule to Subpart W of Part 80 to clarify that vessels subject to the Subpart W GMDSS requirements are required to test their radiotelephone equipment on a daily basis. Section 80.869, 47 C.F.R. § 80.869, imposes a daily testing requirement, but that Subpart R rule, although formerly applicable to all GMDSS vessels, is no longer applicable to vessels governed by Subpart W.³⁰⁸ Since it was never the Commission's intention to relieve Subpart W GMDSS vessels of the daily testing requirement,³⁰⁹ we believe it is appropriate to set forth that requirement in a Subpart W rule. We invite comment on this proposal. In the interim, we encourage the continued testing of GMDSS radiotelephone equipment.

VI. CONCLUSION

76. The increasing reliance on shipping to promote global trade, the development and deployment of more advanced maritime communications technologies, and the heightened importance of securing the safety of vessels and ports, in the United States and around the world, underscore that it is critical for the Commission to regularly review and revise its Part 80 rules to ensure that they continue to effectively promote the public interest. This *Memorandum Opinion and Order, Third Report and Order, and Third Further Notice of Proposed Rule Making* represents the latest chapter in the Commission's ongoing effort to fulfill that responsibility.

VII. PROCEDURAL MATTERS

A. Ex Parte Rules – Permit-But-Disclose Proceeding

77. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in our Rules.³¹⁰

B. Regulatory Flexibility Act

78. The Regulatory Flexibility Act of 1980, as amended (RFA)³¹¹ requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that “the rule will not have a significant economic impact on a substantial number of small entities.”³¹² The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”³¹³ In addition, the term “small business” has the same meaning as

³⁰⁸ Section 80.851, the first rule codified in Subpart R, now specifies that “[t]he radiotelephone requirements of this subpart are applicable to all compulsory ships which are not required to comply with subpart W of this part in total or in part because they have received an exemption from all or some of the subpart W provisions.” See 47 C.F.R. § 80.851.

³⁰⁹ See *Report and Order*, 17 FCC Rcd at 6759 ¶ 42.

³¹⁰ See generally 47 C.F.R. §§ 1.1202, 1.1203, 1.1206(a).

³¹¹ The RFA, see 5 U.S.C. §§ 601-612, 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).

³¹² 5 U.S.C. § 605(b).

³¹³ 5 U.S.C. § 601(6).

the term “small business concern” under the Small Business Act.³¹⁴ A small business concern is 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).³¹⁵

79. In the *Report and Order* in WT Docket No. 00-48, the Commission certified that the requirements adopted therein would not have a significant economic impact upon a substantial number of small entities, as that term is defined by the RFA.³¹⁶ The only changes we make in the instant *Memorandum Opinion and Order* in response to the petitions for reconsideration of the *Report and Order* are to clarify that applicants for a GMDSS Radio Operator’s License do not have to take an Element 1 examination if they have received a Proof of Passing Certificate (PPC) based on completion of a Coast Guard-approved training course; clarify the requirement of ship radio station operators to relay distress alerts from other ships that are not promptly acknowledged by a coast station; remove the sunset date for the Channel 16 watch requirement; relieve compulsory vessels that have upgraded to MF-DSC of the requirement to maintain a watch on the frequency 2182 kHz; relax the requirements for station logs; and permit routine calling on DSC frequencies. These changes either simply clarify or relax the rules, or conform them to international requirements; they will not impose any new compliance burdens nor otherwise have a significant economic impact on small entities. Accordingly, the Commission certifies, pursuant to the RFA, that the clarifications and rule changes contained in the instant *Memorandum Opinion and Order* will not have a significant economic impact on a substantial number of small entities. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *Memorandum Opinion and Order* in WT Docket No. 00-48, including the Supplemental Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the RFA.³¹⁷

80. As required by the RFA,³¹⁸ the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the rules adopted in the *Third Report and Order* in WT Docket No. 00-48. The FRFA for the *Third Report and Order* in WT Docket No. 00-48 is contained in Appendix C. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *Third Report and Order* in WT Docket No. 00-48, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

81. As required by the RFA,³¹⁹ the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the rules proposed or discussed in the *Third Further Notice of Proposed Rule Making* in WT Docket No. 00-48. The IRFA for the *Third Further Notice of Proposed Rule Making* in WT Docket No. 00-48 is contained in Appendix D. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the *Third Further Notice of Proposed Rule Making* in WT Docket No. 00-48, and they should have a separate and distinct heading designating them as responses to the IRFA. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *Third Further*

³¹⁴ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), 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, 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.”

³¹⁵ Small Business Act, 15 U.S.C. § 632.

³¹⁶ See *Report and Order*, 17 FCC Rcd at 6791 ¶ 139.

³¹⁷ 5 U.S.C. § 605.

³¹⁸ *Id.* § 603.

³¹⁹ *Id.* § 603.

Notice of Proposed Rule Making in WT Docket No. 00-48, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.³²⁰

C. Comment Dates

82. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
 - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. 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, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

³²⁰ *Id.* § 603(a).

D. Paperwork Reduction Act

83. This document contains a modified information collection requirement subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13.³²¹ It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

84. In this present document, we have assessed the effects of amending Section 80.409(e) of the Commission’s Rules to reduce the types of distress communications that must be entered into logs by ship station operators, and find that this relaxation of the log-keeping requirement will benefit businesses with fewer than 25 employees by allowing such businesses that own or operate vessels to devote fewer resources to log-keeping. Most significantly, this reduction of an existing information collection requirement will permit the employee charged with making log entries to devote more of his or her time to other tasks that will enhance the navigational safety of the vessel.

E. Congressional Review Act

85. The Commission will send a copy of this *Memorandum Opinion and Order, Third Report and Order, and Third Further Notice of Proposed Rule Making* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

F. Further Information

86. For further information, contact Jeffrey Tobias, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418-1617, or TTY (202) 418-7233, or via electronic mail at jeff.tobias@fcc.gov.

87. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty). This *Memorandum Opinion and Order, Third Report and Order, and Third Further Notice of Proposed Rule Making* can also be downloaded at: <http://www.fcc.gov/>.

VIII. ORDERING CLAUSES

88. Accordingly, IT IS ORDERED, pursuant to the authority of Sections 4(i), 303(r), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), 332(a)(2), Parts 13 and 80 of the Commission’s Rules ARE AMENDED as set forth in the attached Appendix B, effective sixty days after publication in the Federal Register.

89. IT IS FURTHER ORDERED that, pursuant to Sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r) and 403, this *Memorandum*

³²¹ Specifically, in the *Memorandum Opinion and Order*, we grant petitions for reconsideration requesting that we relieve ship station operators of the requirement to make log entries for all distress communications received. That log-keeping requirement, codified at 47 C.F.R. § 80.409(e), has been relaxed so that log entries are required only for (a) distress communications that involve the station’s own ship; (b) distress call acknowledgements and other communications from search and rescue authorities; and (c) distress alerts relayed by the station’s own ship. *See* para. 19, *supra*.

Opinion and Order, Third Report and Order, and Third Further Notice of Proposed Rule Making IS HEREBY ADOPTED, and NOTICE IS HEREBY GIVEN of the proposed regulatory changes described in the *Third Further Notice of Proposed of Rule Making*.

90. IT IS FURTHER ORDERED that the Petitions for Reconsideration of the *Report and Order* in WT Docket No. 00-48 filed by Kurt Anderson, Owen Anderson, Ron Neuman, the Radio Technical Commission for Maritime Services, and the United States Coast Guard ARE GRANTED to the extent provided herein and ARE DENIED in all other respects.

91. IT IS FURTHER ORDERED that the late-filed comments and late-filed reply comments of the United States Coast Guard in response to the *Second Further Notice of Proposed Rule Making* in WT Docket No. 00-48 ARE ACCEPTED.

92. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Memorandum Opinion and Order, Third Report and Order, and Third Further Notice of Proposed Rule Making*, including the Supplemental Final Regulatory Flexibility Certification for the *Memorandum Opinion and Order* in WT Docket No. 00-48, the Final Regulatory Flexibility Analysis for the *Third Report and Order* in WT Docket No. 00-48, and the Initial Regulatory Flexibility Analysis for the *Third Further Notice of Proposed Rule Making* in WT Docket No. 00-48, to the Chief Counsel for Advocacy of the Small Business Administration.

93. IT IS FURTHER ORDERED that the PR Docket No. 92-257 rulemaking proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A
Commenting Parties

Comments

Any La Varre (La Varre)
MariTEL, Inc. (MariTEL)
National GMDSS Task Force (Task Force)
North Pacific Marine Radio Council (NPMRC)
Passenger Vessel Association (PVA)
Radio Technical Commission for Maritime Services (RTCM)
United States Coast Guard (USCG)³²²

Reply Comments

Inmarsat Ventures Limited (Inmarsat)
MariTEL
NPMRC
USCG

Ex Parte Presentations

National Marine Charter Association (NMCA)

³²² The comments and reply comments of the Coast Guard, submitted with a cover letter from NTIA, were filed late. On our own motion, we accept the late-filed comments and reply comments of the Coast Guard in the interest of having as complete a record as possible on which to base our decisions herein.

APPENDIX B**Final Rules**

Chapter I of Title 47 of the Code of Federal Regulations, Parts 13 and 80, is amended as follows:

I. PART 13 -- COMMERCIAL RADIO OPERATORS

1. The authority citation for Part 13 continues to read as follows:

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 13.7 is amended by revising paragraph (b) and adding paragraph (b)(11) to read as follows:

§ 13.7 Classification of operator licenses and endorsements.

(a) * * * * *

(b) There are eleven types of commercial radio operator licenses, certificates and permits (licenses). The license's ITU classification, if different from its name, is given in parentheses.

* * * * *

(11) GMDSS Radio Operator/Maintainer License (general operator's certificate/technical portion of the first-class radio electronic certificate).

* * * * *

3. Section 13.13 is amended by revising paragraph (a) to read as follows:

§ 13.13 Application for a renewed or modified license.

(a) Each application to renew a First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, or Third Class Radiotelegraph Operator's Certificate must be made on FCC Form 605. The application must be accompanied by the appropriate fee and submitted in accordance with §1.913 of this chapter.

* * * * *

4. Section 13.15 is revised to read as follows:

§ 13.15 License term.

(a) First Class Radiotelegraph Operator's Certificates, Second Class Radiotelegraph Operator's Certificates, and Third Class Radiotelegraph Operator's Certificates are normally valid for a term of five years from the date of issuance.

(b) General Radiotelephone Operator Licenses, Restricted Radiotelephone Operator Permits, Restricted Radiotelephone Operator Permits-Limited Use, GMDSS Radio Operator's Licenses, Restricted GMDSS Radio Operator's Licenses, GMDSS Radio Maintainer's Licenses, GMDSS Operator/Maintainer Licenses, and Marine Radio Operator Permits are normally valid for the lifetime of the holder.

5. Section 13.203 is amended by revising paragraph (a) to read as follows:

§ 13.203 Examination elements.

(a) A written examination (written Element) must prove that the examinee possesses the operational and technical qualifications to perform the duties required by a person holding that class of commercial radio operator license. For each Element, the Commission shall establish through public notices or other appropriate means the number of questions to be included in the question pool, the number of questions to be included in the examination, and the number of questions that must be answered correctly to pass the examination. Each written examination must consist of questions relating to the pertinent subject matter, as follows:

(1) Element 1 (formerly Elements 1 and 2): Basic radio law and operating practice with which every maritime radio operator should be familiar. Questions concerning provisions of laws, treaties, regulations, and operating procedures and practices generally followed or required in communicating by means of radiotelephone stations.

(2) Element 3: General radiotelephone. Questions concerning electronic fundamentals and techniques required to adjust, repair, and maintain radio transmitters and receivers at stations licensed by the FCC in the aviation, maritime, and international fixed public radio services.

(3) Element 5: Radiotelegraph operating practice. Questions concerning radio operating procedures and practices generally followed or required in communicating by means of radiotelegraph stations primarily other than in the maritime mobile services of public correspondence.

(4) Element 6: Advanced radiotelegraph. Questions concerning technical, legal and other matters applicable to the operation of all classes of radiotelegraph stations, including operating procedures and practices in the maritime mobile services of public correspondence, and associated matters such as radio navigational aids, message traffic routing and accounting, etc.

(5) Element 7: GMDSS radio operating practices. Questions concerning GMDSS radio operating procedures and practices sufficient to show detailed practical knowledge of the operation of all GMDSS sub-systems and equipment; ability to send and receive correctly by radiotelephone and narrow-band direct-printing telegraphy; detailed knowledge of the regulations applying to radio communications, knowledge of the documents relating to charges for radio communications and knowledge of those provisions of the International Convention for the Safety of Life at Sea which relate to radio; sufficient knowledge of English to be able to express oneself satisfactorily both orally and in writing; knowledge of and ability to perform each function listed in §80.1081; and knowledge covering the requirements set forth in IMO Assembly Resolution on Training for Radio Personnel (GMDSS), Annex 3.

(6) Element 7R: Restricted GMDSS radio operating practices. Questions concerning those GMDSS radio operating procedures and practices that are applicable to ship stations on vessels that sail exclusively in sea area A1, as defined in §80.1069 of this chapter, sufficient to show detailed practical knowledge of the operation of pertinent GMDSS sub-systems and equipment; ability to send and receive correctly by radio telephone and narrow-band direct-printing telegraphy; detailed knowledge of the regulations governing radio communications within sea area A1, knowledge of the pertinent documents relating to charges for radio communications and knowledge of the pertinent provisions of the International Convention for the Safety of Life at Sea; sufficient knowledge of English to be able to express oneself satisfactorily both orally and in writing; knowledge of and ability to perform each pertinent function listed in §80.1081; and knowledge covering the pertinent requirements set forth in IMO Assembly Resolution on Training for Radio Personnel (GMDSS), Annex 3.

(7) Element 8: Ship radar techniques. Questions concerning specialized theory and practice applicable to the proper installation, servicing and maintenance of ship radar equipment in general use for marine navigational purposes.

(8) Element 9: GMDSS radio maintenance practices and procedures. Questions concerning the requirements set forth in IMO Assembly on Training for Radio Personnel (GMDSS), Annex 5 and IMO Assembly on Radio Maintenance Guidelines for the Global Maritime Distress and Safety System related to Sea Areas A3 and A4.

* * * * *

6. Section 13.215 is revised to read as follows:

§ 13.215 Question pools.

The question pool for each written examination element will be composed of questions acceptable to the FCC. Each question pool must contain at least five (5) times the number of questions required for a single examination. The FCC will issue public announcements detailing the questions in the pool for each element. COLEMs must use only currently-authorized (through public notice or other appropriate means) question pools when preparing a question set for a written examination element.

II. 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 80.5 is amended by revising the definition of Digital selective calling (DSC) to read as follows:

§ 80.5 Definitions.

* * * * *

Digital selective calling (DSC). A synchronous system developed by the International Telecommunication Union Radiocommunication (ITU-R) Sector, used to establish contact with a station or group of stations automatically by means of radio. The operational and technical characteristics of this system are contained in Recommendations ITU-R M.493-11, "Digital Selective-calling System for Use in the Maritime Mobile Service," with Annexes 1 and 2, 2004, and ITU-R M.541-9, "Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service," with Annexes, 2004. (see subpart W of this part.) ITU-R Recommendations M.493-11 with Annexes 1 and 2 and M.541-9 with Annexes are incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of these standards can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The ITU-R Recommendations can be purchased from the International Telecommunication Union (ITU), Place des Nations, CH-1211 Geneva 20, Switzerland.

* * * * *

3. Section 80.15 is amended by removing paragraph (d)(4) and revising paragraph (e)(2) to read as follows:

§ 80.15 Eligibility for station license.

* * * * *

(e) * * * * *

(2) A 406.0–406.1 MHz EPIRB may be used by any ship required by U.S. Coast Guard regulations to carry an EPIRB or by any ship that is equipped with a VHF ship radio station. An INMARSAT–E EPIRB may be used by any ship required by U.S. Coast Guard regulations to carry an EPIRB or by any ship that is equipped with a VHF radio station, provided that the ship is not operating in sea area A4 as defined in § 80.1069(a)(4). NOTE: Service to INMARSAT-E EPIRB stations is scheduled to terminate on December 1, 2006, after which time distress signals from INMARSAT-E EPIRB stations will not be received by any Rescue Coordination Center.

4. Section 80.43 is revised to read as follows:

§ 80.43 Equipment acceptable for licensing.

Transmitters listed in §80.203 must be authorized for a particular use by the Commission based upon technical requirements contained in subparts E and F of this part, except for transmitters that are used on vessels in the Maritime Security Fleet and are deemed to satisfy all Commission equipment certification requirements pursuant to Section 53108(c) of Title 46 of the United States Code.

5. Section 80.51 is revised to read as follows:

§ 80.51 Ship earth station licensing.

A ship earth station must display the Commission license.

6. Section 80.57 is amended by removing paragraph (d)(5), (d)(5)(i), and (d)(5)(ii), and redesignating paragraph (d)(6) as (d)(5).

7. Section 80.103 is amended by revising paragraphs (a), (c), and (e) to read as follows:

§ 80.103 Digital selective calling (DSC) operating procedures.

(a) Operating procedures for the use of DSC equipment in the maritime mobile service are as contained in ITU-R M.541–9, “Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service,” with Annexes, 2004, and subpart W of this part.

* * *

(c) DSC acknowledgement of DSC distress and safety calls must be made by designated coast stations and such acknowledgement must be in accordance with procedures contained in ITU-R M.541–9, “Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service,” with Annexes, 2004. Nondesignated public and private coast stations must follow the guidance provided for ship stations in ITU-R M.541–9, “Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service,” with Annexes, 2004, with respect to DSC “Acknowledgement of distress calls” and “Distress relays.” (See subpart W of this part.)

* * *

(e) ITU-R M.541–9 with Annexes, 2004, is incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of this standard can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The ITU-R Recommendation can be purchased from the International Telecommunication Union (ITU), Place des Nations, CH–1211 Geneva 20, Switzerland.

* * * * *

8. Section 80.123 is amended by revising paragraph (d) to read as follows:

§ 80.123 Service to stations on land.

* * * * *

(d) Radio equipment used on land must be certified for use under part 22, part 80, or part 90 of this chapter. Such equipment must operate only on the public correspondence channels authorized for use by the associated public coast station;

* * * * *

9. Section 80.148 is amended by revising the introductory paragraph to read as follows:

§ 80.148 Watch on 156.8 MHz (Channel 16).

Each compulsory vessel, while underway, must maintain a watch for radiotelephone distress calls on 156.800 MHz whenever such station is not being used for exchanging communications. For GMDSS ships, 156.525 MHz is the calling frequency for distress, safety, and general communications using digital selective calling and the watch on 156.800 MHz is provided so that ships not fitted with DSC will be able to call GMDSS ships, thus providing a link between GMDSS and non-GMDSS compliant ships. The watch on 156.800 MHz is not required:

* * * * *

10. Section 80.179 is amended by revising paragraph (e)(1) to read as follows:

§ 80.179 Unattended operation.

* * * * *

(e) * * * * *

(1) The equipment must be using DSC in accordance with ITU-R Recommendation M.493-11, "Digital Selective-calling System for Use in the Maritime Mobile Service," with Annexes 1 and 2, 2004, and ITU-R Recommendation M.541-9, "Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service," with Annexes, 2004, as modified by this section. ITU-R Recommendations M.493-11 with Annexes 1 and 2 and M.541-9 with Annexes are incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of these standards can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The ITU-R Recommendations can be purchased from the International Telecommunication Union (ITU), Place des Nations, CH-1211 Geneva 20, Switzerland.

* * * * *

11. Section 80.203 is amended by revising paragraphs (b)(3), (h), and (n), redesignating paragraph (b)(4) as (b)(5), and adding new paragraph (b)(4) to read as follows:

§ 80.203 Authorization of transmitters for licensing.

* * * * *

(b) * * * * *

(3) Except as provided in paragraph (b)(4) of this section, programming of authorized channels must be performed only by a person holding a first or second class radiotelegraph operator's certificate or a general radiotelephone operator's license using any of the following procedures:

(i) Internal adjustment of the transmitter;

- (ii) Use of controls normally inaccessible to the station operator;
- (iii) Use of external devices or equipment modules made available only to service and maintenance personnel through a service company; and
- (iv) Copying of a channel selection program directly from another transmitter (cloning) using devices and procedures made available only to service and maintenance personnel through a service company.

(4) Notwithstanding paragraph (b)(3) of this section, authorized channels may be programmed via computerized remote control by any person, provided that the remote control operation is designed to preclude the programming of channels not authorized to the licensee.

* * * * *

(h) In addition to the certification requirements contained in part 2 of this chapter, applicants for certification of 406.0-406.1 MHz radiobeacons must also comply with the certification procedures contained in §80.1061 of this part.

* * * * *

(n) Applications for certification of all marine radio transmitters operating in the 2-27.5 MHz band or the 156-162 MHz band received on or after June 17, 1999, must have a DSC capability in accordance with §80.225. This requirement does not apply to transmitters used with AMTS or hand-held portable transmitters.

* * * * *

12. 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
Ship Stations ¹	
Radiotelegraphy:	
100-160 kHz.....	A1A
405-525 kHz.....	A1A, J2A
1615-27500 kHz:	
Manual ^{15, 16, 17}	A1A, J2A, J2B, J2D
DSC ⁶	F1B, J2B
NB-DP ^{14, 16}	F1B, J2B, J2D
Facsimile.....	F1C, F3C, J2C, J3C
156-162 MHz ²	F1B, F2B, F2C, F3C, F1D, F2D
DSC.....	G2B
216-220 MHz ³	F1B, F2B, F2C, F3C

1626.5-1646.5 MHz.....	(⁴)
Radiotelephony:	
1615-27500 kHz ¹⁶	H3E, J2D, J3E, R3E
27.5-470 MHz ⁶	G3D, G3E
1626.5-1646.5 MHz.....	(⁴)
Radiodetermination:	
285-325 kHz ⁷	A1A, A2A
405-525 kHz (Direction Finding) ⁸	A3N, H3N, J3N, NON
154-459 MHz: ¹²	A1D, A2D, F1D, F2D, G1D, G2D
2.4-9.5 GHz.....	PON
Land Stations ¹	
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 ¹⁶	A1A, J2A, J2B, J2D
DSC ¹⁸	F1B, J2B
NB-DP ^{14, 18}	F1B, J2B, J2D
Facsimile.....	F1C, F3C, J2C, J3C
Alaska-Fixed ^{17, 18}	A1A, A2A, F1B, F2B, J2B, J2D
72-76 MHz.....	A1A, A2A, F1B, F2B
156-162 MHz ^{2, 20}	F1B, F2B, F2C, F3C, F1D, F2D
DSC.....	G2B
216-220 MHz ³	F1B, F2B, F2C, F3C
Radiotelephony:	
1615-27500 kHz ^{18, 19}	H3E, J3E, R3E
72-76 MHz.....	A3E, F3E, G3E
156-470 MHz.....	G3E
Radiodetermination:	

2.4-9.6 GHz.....	PON
Distress, Urgency and Safety ^{8, 9}	
2182 kHz ^{10, 11}	A2B, A3B, H2B, H3E, J2B, J3E
121.500 MHz.....	A3E, A3X, N0N
123.100 MHz.....	A3E
156.750 and 156.800 MHz ¹³	G3E, G3N
243.000 MHz.....	A3E, A3X, N0N
406.0-406.1 MHz.....	G1D

¹ Excludes distress, EPIRBs, survival craft, and automatic link establishment.

² 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.

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

⁴ Types of emission are determined by the INMARSAT Organization.

⁵ [Reserved].

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

⁷ Frequencies used for cable repair operations. *See* § 80.375(b).

⁸ For direction finding requirements see § 80.375.

⁹ Includes distress emissions used by ship, coast, EPIRBs and survival craft stations.

¹⁰ On 2182 kHz A1B, A2B, H2B and J2B emissions indicate transmission of the auto alarm signals.

¹¹ Ships on domestic voyages must use J3E emission only.

¹² 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.

¹³ Class C EPIRB stations may not be used after February 1, 1999.

¹⁴ NB-DP operations which are not in accordance with ITU-R Recommendations M.625 or M.476 are permitted to utilize any modulation, so long as emissions are within the limits set forth in § 80.211(f).

¹⁵ J2B is permitted only on 2000-27500 kHz.

¹⁶ J2D is permitted only on 2000-27500 kHz, and ship stations employing J2D emissions shall at no time use a peak envelope power in excess of 1.5 kW per channel.

¹⁷ J2B and J2D are permitted provided they do not cause harmful interference to A1A.

¹⁸ Coast stations employing J2D emissions shall at no time use a peak envelope power in excess of 10 kW per channel.

¹⁹ J2D is permitted only on 2000-27500 kHz.

²⁰ If a station uses another type of digital emission, it must comply with the emission mask requirements of § 90.210, except that Automatic Identification System (AIS) transmissions do not have to comply with the emission mask requirements of § 90.210.

13. Section 80.211 is amended by revising paragraph (e) to read as follows:

§ 80.211 Emission limitations.

* * * * *

(e) The mean power of EPIRBs operating on 121.500 MHz, 243.000 MHz and 406.0-406.1 MHz must be as follows:

* * * * *

14. Section 80.223 is amended by revising paragraph (a)(1) to read as follows:

§ 80.223 Special requirements for survival craft stations.

(a) * * * * *

(1) 2182 kHz must be able to operate with A3E or H3E and J2B and J3E emissions;

* * * * *

15. Section 80.225 is amended by adding paragraphs (a)(1)-(6), and revising the introductory paragraph and paragraphs (a) and (c)(2) to read as follows:

§ 80.225 Requirements for selective calling equipment.

This section specifies the requirements for voluntary digital selective calling (DSC) equipment and selective calling equipment installed in ship and coast stations, and incorporates by reference ITU-R Recommendation M.476-5, "Direct-Printing Telegraph Equipment in the Maritime Mobile Service," with Annex, 1995; ITU-R Recommendation M.493-11, "Digital Selective-calling System for Use in the Maritime Mobile Service," with Annexes 1 and 2, 2004; ITU-R Recommendation M.541-9, "Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service," with Annexes, 2004; ITU-R Recommendation M.625-3, "Direct-Printing Telegraph Equipment Employing Automatic Identification in the Maritime Mobile Service," with Annex, 1995; RTCM Paper 56-95/SC101-STD, "RTCM Recommended Minimum Standards for Digital Selective Calling (DSC) Equipment Providing Minimum Distress and Safety Capability," Version 1.0, dated August 10, 1995; and IEC 62238 Ed.1, "Maritime navigation and radiocommunication equipment and systems - VHF radiotelephone equipment incorporating Class 'D' Digital Selective Calling (DSC) - Methods of testing and required test results," (2003). ITU-R Recommendations M.476-5 with Annex, M.493-11 with Annexes 1 and 2, M.541-9 with Annexes, and M.625-3 with Annex, RTCM Paper 56-95/SC101-STD, and IEC 62238 Ed. 1 are incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of these standards can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The ITU-R Recommendations can be purchased from the International Telecommunication Union (ITU), Place des Nations, CH-1211 Geneva 20, Switzerland. The RTCM standards can be purchased from the Radio Technical Commission for Maritime Services (RTCM), 1800 N. Kent Street, Suite 1060, Arlington, Virginia 22209, www.rtcn.org, email pubs@rtcn.org.

(a) The requirements for DSC equipment voluntarily installed in coast or ships stations are as follows:

(1) Prior to [one year after the effective date of these rules], DSC equipment must meet the

requirements of the following standards in order to be approved for use: (i) RTCM Paper 56-95/SC101-STD, RTCM Recommended Minimum Standards for Digital Selective Calling (DSC) Equipment Providing Minimum Distress and Safety Capability,” Version 1.0, dated August 10, 1995, and ITU-R Recommendation M.493-10, “Digital Selective-calling System for Use in the Maritime Mobile Service,” with Annexes 1 and 2, 2000 (including only equipment classes A, B, D, and E); or (ii) ITU-R Recommendation M.493-11, “Digital Selective-calling System for Use in the Maritime Mobile Service,” with Annexes 1 and 2, 2004, and, in the case of Class D DSC equipment only, IEC 62238 Ed.1, “Maritime navigation and radiocommunication equipment and systems - VHF radiotelephone equipment incorporating Class ‘D’ Digital Selective Calling (DSC) - Methods of testing and required test results” (2003).

(2) Beginning [one year after the effective date of these rules], the Commission will not accept new applications (but will continue to process then-pending applications) for certification of non-portable DSC equipment that does not meet the requirements of ITU-R Recommendation M.493-11, “Digital Selective-calling System for Use in the Maritime Mobile Service,” with Annexes 1 and 2, 2004, and, in the case of Class D DSC equipment only, IEC 62238 Ed.1, “Maritime navigation and radiocommunication equipment and systems - VHF radiotelephone equipment incorporating Class ‘D’ Digital Selective Calling (DSC) - Methods of testing and required test results” (2003).

(3) Beginning [four years after the effective date of these rules], the Commission will not accept new applications (but will continue to process then-pending applications) for certification of handheld, portable DSC equipment that does not meet the requirements of ITU-R Recommendation M.493-11, “Digital Selective-calling System for Use in the Maritime Mobile Service,” with Annexes 1 and 2, 2004, and, in the case of Class D DSC equipment only, IEC 62238 Ed.1, “Maritime navigation and radiocommunication equipment and systems - VHF radiotelephone equipment incorporating Class ‘D’ Digital Selective Calling (DSC) - Methods of testing and required test results” (2003).

(4) The manufacture, importation, sale or installation of non-portable DSC equipment that does not comply with either of the standards referenced in paragraph (a)(2) of this section is prohibited beginning [three years after the effective date of these rules].

(5) The manufacture, importation, or sale of handheld, portable DSC equipment that does not comply with either of the standards referenced in paragraph (a)(3) of this section is prohibited beginning [seven years after the effective date of these rules].

(6) Approved DSC equipment that has been manufactured, sold, and installed in conformity with the requirements of this section may be used indefinitely.

* * * * *

(c) * * * * *

(2) Equipment used to perform a selective calling function during narrow-band direct-printing (NB-DP) operations in accordance with ITU-R Recommendation M.476-5, “Direct-Printing Telegraph Equipment in the Maritime Mobile Service,” with Annex, 1995, or ITU-R Recommendation M.625-3, “Direct-Printing Telegraph Equipment Employing Automatic Identification in the Maritime Mobile Service,” with Annex, 1995, ITU-R Recommendation M.493-11, “Digital Selective-calling System for Use in the Maritime Mobile Service,” with Annexes 1 and 2, 2004, and

* * * * *

16. Section 80.251 is amended by revising paragraph (a) to read as follows:

§ 80.251 Scope.

(a) This subpart gives the general technical requirements for certification of equipment used on compulsory ships. Such equipment includes automatic-alarm-signal keying devices, survival craft radio equipment, watch receivers, radar equipment and Ship Security Alert System (SSAS) equipment.

* * * * *

17. Section 80.268 is amended by removing paragraph (b)(2) and redesignating paragraph (b)(3) as (b)(2).

18. Section 80.269 is removed.

19. Section 80.271 is amended by revising paragraph (e) to read as follows:

§ 80.271 Technical requirements for portable survival craft radiotelephone transceivers.

* * * * *

(e) Portable radiotelephone transceivers which are certified to meet the requirements of this section must be identified by an appropriate note in the Commission's database.

20. Section 80.273 is amended to read as follows:

§ 80.273 Technical requirements for radar equipment.

(a) Radar installations on board ships that are required by the Safety Convention or the U.S. Coast Guard to be equipped with radar must comply with the documents referenced in the following paragraphs of this section. These documents contain specifications, standards and general requirements applicable to shipboard radar equipment and shipboard radar installations. For purposes of this part the specifications, standards and general requirements stated in these documents are mandatory irrespective of discretionary language. The standards listed in this section are incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of these standards can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The IMO standards can be purchased from International Maritime Organization (IMO), Publications, International Maritime Organization, 4 Albert Embankment, London SE1 7SR, United Kingdom; telephone 011 44 71 735 7611. IEC publications can be purchased from the International Electrotechnical Commission, 3 Rue de Varembe, CH-1211 Geneva 20, Switzerland, or from the American National Standards Institute (ANSI) through its NSSN operation (www.nssn.org), at Customer Service, American National Standards Institute, 25 West 43rd Street, New York, NY 10036, telephone (212) 642-4900. ITU documents can be purchased from the International Telecommunication Union (ITU), Place des Nations, CH-1211 Geneva 20, Switzerland (www.itu.int.)

(b) Radar installed on or after [the effective date of these rules], on ships of 300 tons gross tonnage and upwards, and radar installed on a ship after [the effective date of these rules], and certificated by the U.S. Coast Guard under the IMO Code for the Safety of High Speed Craft (IMO Resolution MSC.36(63), May 20, 1994), must comply with:

(1) IMO Resolution MSC.64(67) Annex 4, "Recommendation on performance standards for radar equipment;"

(2) The emission limits contained in Appendix 3 of the ITU radio regulations, section II, "Spurious domain emissions limits for transmitters installed after 1 January 2003 and for all transmitters after 1 January 2012"; and

(3) ITU-R M.1177-3, "Techniques for measurement of unwanted emissions of radar systems," including Annexes 1 and 2 and all appendices thereto (2003).

(c) For any ship of 10,000 tons gross tonnage and upwards or that is otherwise required to be equipped with two radar systems, each of the two radar systems must be capable of operating independently and must comply with the specifications, standards and general requirements set forth on paragraph (b) of this section. One of the systems must provide a display with an effective diameter of not less than 340 millimeters (13.4 inches), (16-inch cathode ray tube). The other system must provide a

display with an effective diameter of not less than 250 millimeters (9.8 inches), (12-inch cathode ray tube).

(d) Radar installed before [the effective date of these rules] must meet and be maintained to comply with the Commission's regulations in effect for the equipment on the date of its installation.

21. Section 80.277 is added to read as follows:

§ 80.277 Ship Security Alert System (SSAS).

(a) Vessels equipped with a Ship Security Alert System pursuant to the Safety Convention or United States Coast Guard rules may utilize:

(1) Equipment that complies with RTCM Paper 110-2004/SC110-STD, "RTCM Recommended Standards for Ship Security Alert Systems (SSAS) using the Cospas-Sarsat System," June 4, 2004; or

(2) INMARSAT D+ equipment; or

(3) Equipment that complies with the technical specifications found in this subpart.

(b) RTCM Paper 110-2004/SC110-STD is incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of these standards can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The RTCM standards can be purchased from the Radio Technical Commission for Maritime Services (RTCM), 1800 N. Kent St., Suite 1060, Arlington VA 22209, www.rtc.org, email at pubs@rtc.org.

22. Section 80.305 is amended by revising paragraphs (a)(1), (a)(2), (b)(1), and (c) to read as follows:

§ 80.305 Watch requirements of the Communications Act and the Safety Convention.

(a) * * * * *

(1) If it is not carrying MF-DSC radio equipment, keep a continuous and efficient watch on the radiotelephone distress frequency 2182 kHz from the principal radio operating position or the room from which the vessel is normally steered while being navigated in the open sea outside a harbor or port.

(2) Keep a continuous and efficient watch on the VHF distress frequency 156.800 MHz from the room from which the vessel is normally steered while in the open sea outside a harbor or port. The watch must be maintained by a designated member of the crew who may perform other duties, relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. Use of a properly adjusted squelch or brief interruptions due to other nearby VHF transmissions are not considered to adversely affect the continuity or efficiency of the required watch on the VHF distress frequency. This watch need not be maintained by vessels subject to the Bridge-to-Bridge Act and participating in a Vessel Traffic Services (VTS) system as required or recommended by the U.S. Coast Guard, when an efficient listening watch is maintained on both the bridge-to-bridge frequency and a separate assigned VTS frequency.

* * * * *

(b) * * * * *

(1) If it is not carrying MF-DSC radio equipment, keep a continuous watch on 2182 kHz in the room from which the vessel is normally steered while at sea, whenever such station is not being used for authorized traffic. Such watch must be maintained by at least one officer or crewmember who may perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the watch. A radiotelephone watch receiver having a loudspeaker and a radiotelephone

auto alarm must be used to keep the continuous watch on 2182 kHz. After a determination by the master that maintenance of the watch would interfere with the safe navigation of the ship, the watch may be maintained by use of the radiotelephone auto alarm facility alone.

* * * * *

(c) Each vessel of the United States transporting more than six passengers for hire, which is equipped with a radiotelephone station for compliance with part III of title III of the Communications Act but which is not carrying MF-DSC radio equipment, must, while being navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or contiguous to the open sea, keep a continuous watch on 2182 kHz while the vessel is beyond VHF communication range of the nearest VHF coast station, whenever the radiotelephone station is not being used for authorized traffic. A VHF watch must be kept on 156.800 MHz whenever such station is not being used for authorized traffic. The VHF watch must be maintained at the vessel's steering station actually in use by the qualified operator as defined by §80.157 or by a crewmember who may perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the watch. The use of a properly adjusted squelch is not considered to adversely affect the watch. The VHF watch need not be maintained by vessels subject to the Bridge-to-Bridge Act and participating in a Vessel Traffic Services (VTS) system when an efficient listening watch is maintained on both the bridge-to-bridge frequency and a VTS frequency.

* * * * *

23. Section 80.310 is revised to read as follows:

§ 80.310 Watch required by voluntary vessels.

Voluntary vessels not equipped with DSC must maintain a watch on 2182 kHz and on 156.800 MHz (Channel 16) whenever the vessel is underway and the radio is not being used to communicate. Noncommercial vessels, such as recreational boats, may alternatively maintain a watch on 156.450 MHz (Channel 9) in lieu of VHF Channel 16 for call and reply purposes. Voluntary vessels equipped with VHF-DSC equipment must maintain a watch on 2182 kHz and on either 156.525 MHz (Channel 70) or VHF Channel 16 aurally whenever the vessel is underway and the radio is not being used to communicate. Voluntary vessels equipped with MF-HF DSC equipment must have the radio turned on and set to an appropriate DSC distress calling channel or one of the radiotelephone distress channels whenever the vessel is underway and the radio is not being used to communicate. Voluntary vessels equipped with Inmarsat A, B, C, M or Fleet F77 systems must have the unit turned on and set to receive calls whenever the vessel is underway and the radio is not being used to communicate.

24. Section 80.313 is amended by revising the Frequency band column in the table to change the entry "1605-3500 kHz" to "1615-3500 kHz."

25. Section 80.314 is retitled and revised to read as follows:

§ 80.314 Distress communications.

(a) The international radiotelephone distress signal consists of the word MAYDAY, pronounced as the French expression "m'aider".

(b) These distress signals indicate that a mobile station is threatened by grave and imminent danger and requests immediate assistance.

(c) The radiotelephone distress call consists of:

- (1) The distress signal MAYDAY spoken three times;
- (2) The words THIS IS;
- (3) The call sign (or name, if no call sign assigned) of the mobile station in distress, spoken three times;

- (4) Particulars of the station's position;
 - (5) The nature of the distress;
 - (6) The kind of assistance desired; and
 - (7) Any other information which might facilitate rescue, for example, the length, color, and type of vessel, or number of persons on board.
- (d) The procedures for canceling false distress alerts are contained in § 80.335.
26. Section 80.315 is removed.
27. Section 80.316 is removed.
28. Section 80.327 is retitled and amended by adding paragraphs (e), (f), and (g) to read as follows:

§ 80.327 Urgency signals and messages.

* * * * *

(e) The urgency signal and call, and the message following it, must be sent on one of the international distress frequencies. Stations which cannot transmit on a distress frequency may use any other available frequency on which attention might be attracted.

(f) Mobile stations which hear the urgency signal must continue to listen for at least three minutes. At the end of this period, if no urgency message has been heard, they may resume their normal service. However, land and mobile stations which are in communication on frequencies other than those used for the transmission of the urgency signal and of the call which follows it may continue their normal work without interruption provided the urgency message is not addressed "to all stations".

(g) When the urgency signal has been sent before transmitting a message "to all stations" which calls for action by the stations receiving the message, the station responsible for its transmission must cancel it as soon as it knows that action is no longer necessary. This message of cancellation must likewise be addressed "to all stations".

29. Section 80.328 is removed.

30. Section 80.329 is retitled and amended by adding paragraphs (e), (f), and (g) to read as follows:

§ 80.329 Safety signals and messages.

* * * * *

(e) The safety signal and call must be followed by the safety message. Where practicable, the safety message should be sent on a working frequency, and a suitable announcement to this effect must be made at the end of the call.

(f) Messages about meteorological warnings, of cyclones, dangerous ice, dangerous wrecks, or any other imminent danger to marine navigation must be preceded by the safety signal.

(g) Stations hearing the safety signal must not make any transmission likely to interfere with the message.

31. Section 80.330 is removed.

32. Section 80.335 is amended by revising paragraphs (a)(2), (b)(2), and (c)(2) to read as follows:

§ 80.335 Procedures for canceling false distress alerts.

(a) * * * * *

(2) Immediately cancel the distress alert orally over the telephony distress traffic channel

associated with each DSC channel on which the distress alert was transmitted;

* * * * *

(b) * * * * *

(2) Immediately cancel the distress alert orally over the telephony distress traffic channel associated with each DSC channel on which the distress alert was transmitted; and

* * * * *

(c) * * * * *

(2) Immediately cancel the distress alert orally over the telephony distress traffic channel associated with each DSC channel on which the distress alert was transmitted;

* * * * *

33. Section 80.359 is amended by revising paragraph (b) to read as follows:

§ 80.359 Frequencies for digital selective calling (DSC).

* * * * *

(b) Distress and safety calling. The frequencies 2187.5 kHz, 4207.5 kHz, 6312.0 kHz, 8414.5 kHz, 12577.0 kHz, 16804.5 kHz and 156.525 MHz may be used for DSC by coast and ship stations on a simplex basis for distress and safety purposes, and may also be used for routine ship-to-ship communications provided that priority is accorded to distress and safety communications. The provisions and procedures for distress and safety calling are contained in ITU-R Recommendation M.541-9, “Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service,” with Annexes, 2004, as modified by §80.103(c). ITU-R Recommendation M.541-9 with Annexes is incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of this standard can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The ITU-R Recommendation can be purchased from the International Telecommunication Union (ITU), Place des Nations, CH-1211 Geneva 20, Switzerland.

* * * * *

34. Section 80.371 is amended by revising the reference to “West Coat” in the Region column of the table in paragraph (a) to “West Coast,” and adding a footnote to the entry for 16537 kHz in the table in paragraph (b)(2) to read as follows:

§ 80.371 Public correspondence frequencies.

* * * * *

(b) * * * * *

(2) * * * * *

PUBLIC CORRESPONDENCE SIMPLEX

[Non-paired radiotelephony frequencies in the 4000-27500 kHz Band ¹ Carrier Frequencies (kHz)]

16537 ²	18825	22174	25100
* * *	* * *	* * *	* * *

* * *

¹ Coast stations limited to a maximum transmitter power of 1 kW (PEP).

² The alternative carrier frequency 16537 kHz may be used by ship stations and coast stations for calling on a simplex basis, provided that the peak envelope power does not exceed 1 kW.

(c) Working frequencies in the marine VHF 156-162 MHz band. (1)(i) The frequency pairs listed in the table in this paragraph are available for assignment to public coast stations for public correspondence communications with ship stations and units on land.

* * * * *

35. Section 80.373 is amended by revising paragraph (a)(1), adding a footnote to the entry for 12359 kHz in the table in paragraph (c)(1), revising and redesignating paragraph (g) as (g)(1), and adding paragraph (g)(2) to read as follows:

§ 80.373 Private communications frequencies.

* * * * *

(a) * * * * *

(1) Private coast stations must use J3E emission.

* * * * *

(c) * * *

12359⁶

* * *

⁶ The alternative carrier frequency 12359 kHz may be used by ship stations and coast stations for calling on a simplex basis, provided that the peak envelope power does not exceed 1 kW.

* * * * *

(g)(1) On-board communications: This section describes the carrier frequency pairs assignable for on-board mobile radiotelephony communications. The center of the on-board repeater antenna must not be located more than 3 meters (10 feet) above the ship's working deck. These frequencies are available on a shared basis with stations in the Industrial/Business Radio Pool.

* * *

(2) Where needed, equipment designed for 12.5 kHz channel spacing using the additional frequencies 457.5375 MHz, 457.5625 MHz, 467.5375 MHz, and 467.5625 MHz may be introduced for on-board communications.

* * * * *

36. Section 80.385 is amended by removing paragraph (d).

37. Section 80.409 is amended by removing paragraph (e)(5)(ii), redesignating paragraphs (e)(5)(iii) and (e)(5)(iv) as (e)(5)(ii) and (e)(5)(iii), redesignating paragraphs (e)(6)-(12) as (e)(7)-(13), revising paragraphs (a)(1), (a)(2), (d)(2), and (e)(1), and adding a new paragraph (e)(6) to read as follows:

§ 80.409 Station logs.

(a) * * * * *

(1) The log must be kept in an orderly manner. The log may be kept electronically or in writing. The required information for the particular class or category of station must be readily available. Key letters or abbreviations may be used if their proper meaning or explanation is contained elsewhere in the same log.

(2) Erasures, obliterations, or willful destruction of written logs, or deletions of data or willful

destruction of computer files or computer hardware containing electronic logs, is prohibited during the retention period. Corrections may be made only by the person originating the entry by striking out the error, initialing the correction and indicating the date of correction. With respect to electronic logs, striking out the error is to be accomplished using a strike-through formatting effect or a similar software function, and the correction is to be acknowledged through a dated electronic signature at the location of the strike-through.

* * * * *

(d) * * * * *

(2) "ON WATCH" must be entered by the operator beginning a watch, followed by the operator's signature for stations maintaining written logs. "OFF WATCH" must be entered by the operator being relieved or terminating a watch, followed by the operator's signature for stations maintaining written logs. All log entries must be completed by the end of each watch.

(e) * * * * *

(1) A summary of all distress and urgency communications affecting the station's own ship, all distress alerts relayed by the station's own ship, and all distress call acknowledgements and other communications received from search and rescue authorities.

* * * * *

(6) An entry at least once every thirty days that the batteries or other reserve power sources have been checked and are functioning properly.

* * * * *

38. Subpart R is retitled to read as follows:

Subpart R – Technical Equipment Requirements for Cargo Vessels Not Subject to Subpart W

* * * * *

39. Section 80.858 is amended by removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as (b), (c), and (d).

* * * * *

40. Section 80.871 is amended by removing note 1, and revising the entries for Channels 75 and 76 in the table in paragraph (d) to read as follows:

* * * * *

§ 80.871 VHF radiotelephone station.

(d) * * *

Channel designators	Transmitting frequencies (MHz)	
	Ship station	Coast station
* * *	* * *	* * *
75.....	156.775	156.775
* * *	* * *	* * *
76.....	156.825	156.825

* * * * *

41. Section 80.882 is added to read as follows:

§ 80.882 2182 kHz watch.

Ships subject to this subpart must maintain a watch on the frequency 2182 kHz pursuant to § 80.305.

* * * * *

42. Section 80.905 is amended by revising paragraphs (a)(1), (a)(2), (a)(3)(i), (a)(3)(iii)(A), (a)(4)(i), (a)(4)(iii)(A), (a)(4)(iii)(B), and (a)(4)(vi) to read as follows:

§ 80.905 Vessel radio equipment.

(a) * * * * *

(1) Vessels operated solely within 20 nautical miles of land must be equipped with a VHF-DSC radiotelephone installation meeting the requirements of § 80.1101(c)(2), except that a VHF radiotelephone installation without DSC capability is permitted until one year after the Coast Guard notifies the Commission that shore-based sea area A1 coverage is established. Vessels in this category must not operate more than 20 nautical miles from land.

(2) Vessels operated beyond the 20 nautical mile limitation specified in paragraph (a)(1) of this section, but not more than 100 nautical miles from the nearest land, must be equipped with a MF-DSC frequency transmitter meeting the requirements of § 80.1101(c)(3) and capable of transmitting J3E emission and a receiver capable of reception of J3E emission within the band 1710 to 2850 kHz, in addition to the VHF-DSC radiotelephone installation required by paragraph (a)(1) of this section, except that a MF radiotelephone installation without DSC capability is permitted until one year after the Coast Guard notifies the Commission that shore-based sea area A2 coverage is established. The MF or MF-DSC transmitter and receiver must be capable of operation on 2670 kHz.

(3) * * * * *

(i) Be equipped with a VHF-DSC radiotelephone installation meeting the requirements of paragraph (a)(1) of this section, except that a VHF radiotelephone installation without DSC capability is permitted until one year after the Coast Guard notifies the Commission that shore-based sea area A1 coverage is established;

* * * * *

(iii) * * * * *

(A) A DSC-capable single sideband radiotelephone meeting the requirements of § 80.1101(c)(4) and capable of operating on all distress and safety frequencies in the medium frequency and high frequency bands listed in § 80.369(a) and (b), on all of the ship-to-shore calling frequencies in the high frequency bands listed in § 80.369(d), and on at least four of the automated mutual-assistance vessel rescue (AMVER) system HF duplex channels (this requirement may be met by the addition of such frequencies to the radiotelephone installation required by paragraph (a)(2) of this section); or

(B) If operated in an area within the coverage of an INMARSAT maritime mobile geostationary satellite in which continuous alerting is available, an INMARSAT B, C, M, or Fleet F77 ship earth station, or an INMARSAT A ship earth station if installed prior to February 12, 2004.

* * * * *

(4) * * * * *

(i) Be equipped with two VHF-DSC radiotelephone installations meeting the requirements of paragraph (a)(1) of this section, except that VHF radiotelephone installations without DSC capability are permitted until one year after the Coast Guard notifies the Commission that shore-based sea area A1 coverage is established;

* * * * *

(iii) * * * * *

(A) A DSC-capable independent single sideband radiotelephone meeting the requirements of paragraph (a)(3)(iii)(A) of this section and that is capable of operating on all distress and safety frequencies in the medium frequency and high frequency bands listed in § 80.369(a) and (b), on all of the ship-to-shore calling frequencies in the high frequency bands listed in § 80.369(d), and on at least four of the automated mutual-assistance vessel rescue (AMVER) system HF duplex channels; or

(B) If operated in an area within the coverage of an INMARSAT maritime mobile geostationary satellite in which continuous alerting is available, an INMARSAT B, C, M, or Fleet F77 ship earth station, or an INMARSAT A ship earth station if installed prior to February 12, 2004.

* * * * *

(vi) Be equipped with a Category I 406–406.1 MHz satellite emergency position-indicating radiobeacon (EPIRB) meeting the requirements of §80.1061 or, if the ship is not operating in sea area A4, as defined in § 80.1069(a)(4), an automatic float-free INMARSAT– E EPIRB meeting the requirements of § 80.1063 (NOTE: Service to INMARSAT-E EPIRB stations is scheduled to terminate on December 1, 2006, after which time distress signals from INMARSAT-E EPIRB stations will not be received by any Rescue Coordination Center.); and

* * * * *

43. Section 80.913 is amended by revising paragraph (a) to read as follows:

§ 80.913 Radiotelephone receivers.

(a) If a medium frequency radiotelephone installation is provided, the receiver must be capable of effective reception of J3E emissions, be connected to the antenna system specified by § 80.923, and be preset to, and capable of accurate and convenient selection of, the frequencies 2182 kHz, 2638 kHz, and the receiving frequency(s) of public coast stations serving the area in which the vessel is navigated.

* * * * *

44. Section 80.917 is amended by revising paragraph (a) to read as follows:

§ 80.917 Reserve power supply.

(a) The requirements of this section apply (1) to vessels of more than 100 gross tons; and (2) beginning [one year after the effective date] to (i) vessels that carry more than 150 passengers or have overnight accommodations for more than 49 persons; and (ii) vessels that operate on the high seas or more than three miles from shore on Great Lakes voyages. Any such vessel the keel of which was laid after March 1, 1957, must have a reserve power supply located on the same deck as the main wheel house or at least one deck above the vessel's main deck, unless the main power supply is so situated.

* * * * *

45. Section 80.933 is amended by removing paragraphs (c) and (d) and redesignating paragraph (e) as paragraph (c).

46. Section 80.1051 is revised to read as follows:

§ 80.1051 Scope.

This subpart describes the technical and performance requirements for EPIRB stations.

* * * * *

47. Section 80.1061 is amended by revising paragraphs (a), (c), (c)(1)(ii), and (e) to read as follows:

§ 80.1061 Special requirements for 406.0-406.1 MHz EPIRB stations.

(a) Notwithstanding the provisions in paragraph (b) of this section, 406.0–406.1 MHz EPIRBs must meet all the technical and performance standards contained in the Radio Technical Commission for Maritime Services document entitled RTCM Paper 77–02/SC110–STD, “RTCM Recommended Standards for 406 MHz Satellite Emergency Position-Indicating Radiobeacons (EPIRBs),” Version 2.1, dated June 20, 2002 (RTCM Recommended Standards). The RTCM Recommended Standards are incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the RTCM Recommended Standards can be inspected at the Federal Communications Commission, 445 12th Street, SW, Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The RTCM Recommended Standards can be purchased from the Radio Technical Commission for Maritime Services, 1800 N. Kent St., Suite 1060, Arlington VA 22209, www.rtc.org, email at pubs@rtc.org.

* * * * *

(c) Prior to submitting a certification application for 406.0-406.1 MHz radiobeacon, the radiobeacon must be certified by a test facility recognized by one of the COSPAS-SARSAT Partners that the equipment satisfies the design characteristics associated with the measurement methods described in COSPAS-SARSAT Standards T.001, “Specification for COSPAS-SARSAT 406 MHz Distress Beacons,” Issue 3 – Revision 4 (October 2002) and T.007, “COSPAS-SARSAT 406 MHz Distress Beacon Type Approval Standard,” Issue 3 – Revision 9 (October 2002). Additionally, the radiobeacon must be subjected to the environmental and operational tests associated with the test procedures described in Appendix A of the RTCM Recommended Standards by a test facility accepted by the U.S. Coast Guard for this purpose. Information regarding accepted test facilities may be obtained from Commandant (G-MSE), U.S. Coast Guard, 2100 2nd St., SW, Washington, DC 20593-0001, <http://www.uscg.mil/hq/g-m/mse/lablist/lab161011.pdf>. The COSPAS-SARSAT Standards T.001 and T.007 are incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the COSPAS-SARSAT Standards can be inspected at the Federal Communications Commission, 445 12th Street, SW, Washington, DC (Reference Information Center) or at the Office of the Federal Register, 800 North Capitol Street, N.W., Suite 700, Washington, DC. The COSPAS-SARSAT Standards may be obtained from COSPAS-SARSAT Secretariat, c/o Inmarsat, 99 City Road, London EC1Y 1AX, United Kingdom, Telephone: +44 20-7728 1391, Facsimile: +44 20-7728 1170; www.cospas-sarsat.org.

(1) * * * * *

(ii) Copies of the certificate and test data obtained from the test facility recognized by a COSPAS/SARSAT Partner showing that the radiobeacon complies with the COSPAS/SARSAT design characteristics associated with the measurement methods described in the RTCM Recommended Standards and COSPAS-SARSAT Standards;

* * * * *

(e) An identification code, issued by the National Oceanic and Atmospheric Administration (NOAA), the United States Program Manager for the 406.0-406.1 MHz COSPAS/SARSAT satellite system, must be programmed in each EPIRB unit to establish a unique identification for each EPIRB station. With each marketable EPIRB unit, the manufacturer or grantee must include a postage pre-paid registration card printed with the EPIRB identification code addressed to: NOAA/SARSAT Beacon Registration, E/SP3, Federal Building 4, Room 3320, 5200 Auth Road, Suitland, MD 20746–4304. The registration card must request the owner's name, address, telephone number, type of ship, alternate emergency contact and other information as required by NOAA. The registration card must also contain

information regarding the availability to register the EPIRB at NOAA's online web-based registration database at: <http://www/beaconregistration.noaa.gov>. In addition, the following statement must be included: "WARNING—failure to register this EPIRB with NOAA before installation could result in a monetary forfeiture being issued to the owner."

* * * * *

48. Section 80.1063 is amended by adding a note preceding paragraph (a) to read as follows:

§ 80.1063 Special requirements for INMARSAT-E EPIRB stations.

NOTE: Service to INMARSAT-E EPIRB stations is scheduled to terminate on December 1, 2006, after which time distress signals from INMARSAT-E EPIRB stations will not be received by any Rescue Coordination Center.

* * * * *

49. Section 80.1065 is amended by removing paragraphs (a) and (b)(1) through (b)(6), redesignating paragraphs (b) through (d) as paragraphs (a) through (c), and revising redesignated paragraph (a) to read as follows:

§ 80.1065 Applicability.

(a) The regulations contained within this subpart apply to all passenger ships regardless of size and cargo ships of 300 tons gross tonnage and upwards.

* * * * *

50. Section 80.1071 is amended by revising paragraphs (c)(1)(i) and (c)(1)(ii) to read as follows:

§ 80.1071 Exemptions.

* * * * *

(c) * * * * *

(1) * * * * *

(i) A VHF radiotelephone installation.

(ii) A MF or HF radiotelephone installation.

* * * * *

51. Section 80.1073 is amended by revising paragraph (a) to read as follows:

§ 80.1073 Radio operator requirements for ship stations.

(a) Ships must carry at least two persons holding GMDSS Radio Operator's Licenses as specified in §13.7 of this chapter for distress and safety radiocommunications purposes. The GMDSS Radio Operator's License qualifies personnel as a GMDSS radio operator for the purposes of operating a GMDSS radio installation, including basic equipment adjustments as denoted in the knowledge requirements specified in § 13.203 of this chapter.

* * * * *

52. Section 80.1077 is amended by removing footnote 11, and adding footnote 12 to the entry for INMARSAT E-EPIRBs to read as follows:

80.1077 Frequencies.

The following table describes the frequencies used in the Global Maritime Distress and Safety System:

Alerting:

* * *

INMARSAT-E EPIRBs¹²..... 1626.5-1645.5 MHz (Earth-to-space).

* * *

¹² Service to INMARSAT-E EPIRB stations is scheduled to terminate on December 1, 2006, after which time distress signals from INMARSAT-E EPIRB stations will not be received by any Rescue Coordination Center.

* * * * *

53. Section 80.1083 is amended by revising paragraph (d) to read as follows:

§ 80.1083 Ship radio installations.

* * * * *

(d) Shipborne Integrated Radiocommunication System (IRCS) may be utilized to integrate all GMDSS equipment into a standard operator's console. Such installation must be certified in accordance with § 80.1103 and meet the requirements of IMO Assembly Resolution A.811(19), "Performance Standards for a Shipborne Integrated Radiocommunication System (IRCS) When Used in the GMDSS," with Annex, adopted 23 November 1995. IMO Assembly Resolution A.811(19) with Annex is incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of this standard can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The IMO standards can be purchased from Publications, International Maritime Organization, 4 Albert Embankment, London SE1 7SR, United Kingdom.

54. Section 80.1085 is amended by revising paragraphs (a)(6)(i) and (a)(6)(iii) to read as follows:

§ 80.1085 Ship radio equipment—General.

* * * * *

(a) * * * * *

(6) * * * * *

(i) Capable of transmitting a distress alert through the polar orbiting satellite service operating in the 406.0–406.1 MHz band (406.0–406.1 MHz EPIRB) or, if the ship is not operating in sea area A4, as defined in § 80.1069(a)(4), the 1.6 GHz band (INMARSAT-E EPIRB) (NOTE: Service to INMARSAT-E EPIRB stations is scheduled to terminate on December 1, 2006, after which time distress signals from INMARSAT-E EPIRB stations will not be received by any Rescue Coordination Center); and

* * * * *

(iii) Examined and tested annually in accordance with IMO Circular MSC/Circ.1040, Guidelines on annual testing of 406 MHz satellite EPIRBs (28 May 2002). See § 80.1105(k).

* * * * *

55. Section 80.1087 is amended by revising paragraph (a)(2) to read as follows:

§ 80.1087 Ship radio equipment—Sea Area A1.

* * * * *

(a) * * * * *

(2) Through the polar orbiting satellite service on 406.0–406.1 MHz or the INMARSAT-E

service in the 1.6 GHz band (this requirement may be fulfilled by the EPIRB required by § 80.1085(a)(6), either by installing the EPIRB close to, or by allowing remote activation from, the position from which the ship is normally navigated) (NOTE: Service to INMARSAT-E EPIRB stations is scheduled to terminate on December 1, 2006, after which time distress signals from INMARSAT-E EPIRB stations will not be received by any Rescue Coordination Center); or

* * * * *

56. Section 80.1089 is amended by revising paragraph (a)(3)(i) to read as follows:

§ 80.1089 Ship radio equipment—Sea Areas A1 and A2.

* * * * *

(a) * * * * *

(3) * * * * *

(i) Through the polar orbiting satellite service on 406.0–406.1 MHz or the INMARSAT–E service in the 1.6 GHz band (this requirement may be fulfilled by the EPIRB required by § 80.1085(a)(6), either by installing the EPIRB close to, or by allowing remote activation from, the position from which the ship is normally navigated) (NOTE: Service to INMARSAT-E EPIRB stations is scheduled to terminate on December 1, 2006, after which time distress signals from INMARSAT-E EPIRB stations will not be received by any Rescue Coordination Center); or

* * * * *

57. Section 80.1091 is amended by revising paragraphs (a)(1)(i), (a)(4)(i), and (b)(3)(ii) to read as follows:

§ 80.1091 Ship radio equipment—Sea Areas A1, A2, and A3.

(a) * * * * *

(1) * * * * *

(i) Transmitting and receiving distress and safety data communications;

* * * * *

(4) * * * * *

(i) Through the polar orbiting satellite service on 406.0–406.1 MHz or the INMARSAT–E service in the 1.6 GHz band (this requirement may be fulfilled by the EPIRB required by § 80.1085(a)(6), either by installing the EPIRB close to, or by allowing remote activation from, the position from which the ship is normally navigated) (NOTE: Service to INMARSAT-E EPIRB stations is scheduled to terminate on December 1, 2006, after which time distress signals from INMARSAT-E EPIRB stations will not be received by any Rescue Coordination Center); or

* * * * *

(b) * * * * *

(3) * * * * *

(ii) Through the INMARSAT–E service in the 1.6 GHz band (this requirement may be fulfilled by the EPIRB required by § 80.1085(a)(6), either by installing the EPIRB close to, or by allowing remote activation from, the position from which the ship is normally navigated) (NOTE: Service to INMARSAT-E EPIRB stations is scheduled to terminate on December 1, 2006, after which time distress signals from INMARSAT-E EPIRB stations will not be received by any Rescue Coordination Center); or

* * * * *

58. Section 80.1095 is amended by revising paragraph (a) to read as follows:

§ 80.1095 Survival craft equipment.

(a) At least three two-way VHF radiotelephone apparatus must be provided on every passenger ship and on every cargo ship of 500 tons gross tonnage and upwards. At least two two-way VHF radiotelephone apparatus must be provided on every cargo ship of between 300–500 tons gross tonnage. Portable two-way VHF radiotelephones must be stowed in such locations that they can be rapidly placed in any survival craft other than life rafts required by Regulation III/26.1.4 of the SOLAS Convention. Alternatively, survival craft may be fitted with a fixed two-way VHF radiotelephone installation. Two-way VHF radiotelephone apparatus, portable or fixed, must conform to performance standards as specified in §80.1101.

* * * * *

59. Section 80.1101 is amended by revising paragraphs (b)(4), (b)(5), (c)(2)(ii), (c)(3)(ii), (c)(4)(ii), (c)(5)(iii), (c)(7)(i), (c)(13)(ii), (c)(13)(iii), (c)(13)(iv), (c)(13)(v), (c)(13)(ix), (d)(3), and (d)(4), and adding paragraphs (c)(2)(iii), (c)(3)(iii), (c)(4)(iii), (c)(11) and (c)(13)(x) to read as follows:

§ 80.1101 Performance standards.

* * * * *

(b) * * * * *

(4) IEC 60092-101, “Electrical installations in ships – Part 101: Definitions and general requirements,” August 2002.

(5) IEC 60533, “Electrical and electronic installations in ships – Electromagnetic compatibility,” November 1999.

* * * * *

(c) * * * * *

(2) * * * * *

(ii) ITU-R Recommendation M.493–11, “Digital Selective-calling System for Use in the Maritime Mobile Service,” with Annexes 1 and 2, 2004.

(iii) ITU-R Recommendation M.541–9, “Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service,” with Annexes, 2004.

(3) * * * * *

(ii) ITU-R Recommendation M.493–11, “Digital Selective-calling System for Use in the Maritime Mobile Service,” with Annexes 1 and 2, 2004.

(iii) ITU-R Recommendation M.541–9, “Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service,” with Annexes, 2004.

(4) * * * * *

(ii) ITU-R Recommendation M.493–11, “Digital Selective-calling System for Use in the Maritime Mobile Service,” with Annexes 1 and 2, 2004.

(iii) ITU-R Recommendation M.541–9, “Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service,” with Annexes, 2004.

(5) * * * * *

(iii) ITU-R Recommendation M.633–3, “Transmission characteristics of a satellite emergency position-indicating radiobeacon (satellite EPIRB) system operating through a low polar-orbiting satellite system in the 406 MHz band,” 2000.

* * * * *

(7) Two-way VHF radiotelephone: IMO Resolution A.762(18), “Performance standards for survival craft two-way VHF radiotelephone apparatus,” November 4, 1993.

* * * * *

(11) *INMARSAT-E EPIRBs*: [NOTE: Service to INMARSAT-E EPIRB stations is scheduled to terminate on December 1, 2006, after which time distress signals from INMARSAT-E EPIRB stations will not be received by any Rescue Coordination Center.] (i) IMO Resolution A.812(19), “Performance Standards for Float-Free Satellite EPIRBs Operating Through the Geostationary INMARSAT Satellite System on 1.6 GHz,” adopted 23 November 1995, and Annex, “Recommendation on Performance.”

(ii) IMO Resolution A.662(16), “Performance Standards for Float-Free Release and Activation Arrangements for Emergency Radio Equipment,” with Annex, adopted 19 October 1989.

(iii) Recommendation ITU-R M.632-3, “Transmission Characteristics of a Satellite Emergency Position Indicating Radio Beacon (Satellite EPIRB) System Operating Through Geostationary Satellites in the 1.6 GHz Band,” 1997.

(iv) IEC 61097-5, First Edition “Global maritime distress and safety system (GMDSS)—Part 5: Inmarsat-E Emergency position indicating radio beacon (EPIRB) operating through the Inmarsat system—operational and performance requirements, methods of testing and required test results,” including Annexes A, B, and C, 1997.

(v) The INMARSAT E-EPIRBs must also comply with § 80.1063.

* * * * *

(13) * * * * *

(ii) IEC 61097-3 Ed 1.0, “Global maritime distress and safety system (GMDSS) – Part 3: Digital selective calling (DSC) equipment – Operational and performance requirements, methods of testing and required testing results,” with Annexes, June 1994.

(iii) IEC 61097-4 Ed 1.0, “Global maritime distress and safety system (GMDSS) – Part 4: INMARSAT-C Ship Earth Station and INMARSAT enhanced group call (EGC) equipment – Operational and performance requirements, methods of testing and required test results,” November 1994.

(iv) IEC 61097-6, “Global maritime distress and safety system (GMDSS) – Part 6: Narrowband direct-printing telegraph equipment for the reception of navigational and meteorological warnings and urgent information to ships (NAVTEX) – Operational and performance requirements, methods of testing and required test results,” February 1995.

(v) IEC 61097-7, “Global maritime distress and safety system (GMDSS) – Part 7: Shipborne VHF radiotelephone transmitter and receiver – Operational and performance requirements, methods of testing and required test results,” October 1996.

* * * * *

(ix) IEC 61097-12 Ed 1.0, “Global maritime distress and safety system (GMDSS) – Part 12: Survival craft portable two-way VHF radiotelephone apparatus – Operational and performance requirements, methods of testing and required test results,” December 1996.

(x) IEC 61097-13 Ed 1.0, “Global maritime distress and safety system (GMDSS) – Part 13: Inmarsat F77 ship earth station equipment – Operational and performance requirements, methods of testing and required test results,” May 2003.

(d) * * * * *

(3) IEC publications can be purchased from the International Electrotechnical Commission, 3 Rue de Varembe, CH-1211 Geneva 20, Switzerland, or from the American National Standards Institute

(ANSI) through its NSSN operation (www.nssn.org), at Customer Service, American National Standards Institute, 25 West 43rd Street, New York, NY 10036, telephone (212) 642-4900.

(4) ISO Standards can be purchased from the International Organization for Standardization, 1 Rue de Varembe, CH-1211 Geneva 20, Switzerland, or from the American National Standards Institute (ANSI) through its NSSN operation (www.nssn.org), at Customer Service, American National Standards Institute, 25 West 43rd Street, New York, NY 10036, telephone (212) 642-4900.

* * * * *

60. Section 80.1103 is amended by revising paragraph (c) to read as follows:

§ 80.1103 Equipment authorization.

* * * * *

(c) Applicants for verification must attest that the equipment complies with performance standards as specified in § 80.1101 and, where applicable, that measurements have been made that demonstrate the necessary compliance. Submission of representative data demonstrating compliance is not required unless requested by the Commission. An application must include the items listed in §§ 2.953 and 2.955 of this chapter and a copy of the type-approval certification indicating that equipment meets GMDSS standards and includes all peripheral equipment associated with the specific unit under review.

* * * * *

61. Section 80.1113 is amended by revising paragraph (b) to read as follows:

§ 80.1113 Transmission of a distress alert.

* * * * *

(b) The format of distress calls and distress messages must be in accordance with ITU-R Recommendation M.493-11, "Digital Selective-calling system for use in the Maritime Mobile Service," with Annexes 1 and 2, 2004, and ITU-R Recommendation M.541-9, "Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service," with Annexes, 2004, as specified in §80.1101. ITU-R Recommendation M.493-11, with Annexes 1 and 2,, and ITU-R Recommendation M.541-9, with Annexes, 2004, are incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of these standards can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The ITU-R Recommendation can be purchased from the International Telecommunication Union (ITU), Place des Nations, CH-1211 Geneva 20, Switzerland.

* * * * *

62. Section 80.1117 is amended by revising paragraph (a) to read as follows:

§ 80.1117 Procedure for receipt and acknowledgement of distress alerts.

(a) Normally, distress calls received using digital selective calling are only acknowledged using a DSC acknowledgement by a coast station. Ships should delay any acknowledgement in order to give sufficient time for a coast station to acknowledge the call. In cases where no acknowledgement has been heard and no distress traffic has been heard, the ship should transmit a distress alert relay to the coast station. Upon advice from the Rescue Coordination Center, the ship may transmit a DSC acknowledgement call to stop it from being repeated. Acknowledgement by digital selective calling of receipt of a distress alert in the terrestrial services must comply with ITU-R Recommendation M.541-9,

“Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service,” with Annexes, 2004. ITU-R Recommendation M.541-9 with Annexes is incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of this standard can be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The ITU-R Recommendation can be purchased from the International Telecommunication Union (ITU), Place des Nations, CH-1211 Geneva 20, Switzerland.

* * * * *

63. Section 80.1123 is amended by removing paragraph (d), redesignating paragraphs (e) and (f) as paragraphs (d) and (e), and revising paragraph (c) to read as follows:

§ 80.1123 Watch requirements for ship stations.

* * * * *

(c) Every ship while at sea must maintain, when practicable, a continuous listening watch on VHF Channel 16. This watch must be kept at the position from which the ship is normally navigated or at a position which is continuously manned.

* * * * *

64. Section 80.1125 is amended by revising paragraph (j)(6) to read as follows:

§ 80.1125 Search and rescue coordinating communications.

* * * * *

(j) * * * * *

(6) The name and call sign of the mobile station which was in distress; and

* * * * *

65. Section 80.1153 is amended to read as follows:

§ 80.1153 Station log and radio watches.

(a) Licensees of voluntary ships are not required to maintain radio station logs.

(b) When a ship radio station of a voluntary ship is being operated, the appropriate general purpose watches must be maintained in accordance with §§ 80.147 and 80.310.

APPENDIX C

Final Regulatory Flexibility Analysis

(*Third Report and Order* in WT Docket No. 00-48)

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),³²³ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Second Further Notice of Proposed Rule Making (Second Further Notice)* in this proceeding.³²⁴ The Commission sought written public comment on the proposals in the *Second Further Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.³²⁵

A. Need for, and Objectives of, the Third Report and Order

The rules adopted in the *Third Report and Order* are intended to streamline, consolidate and clarify the Commission's Part 80 rules; remove unnecessary or duplicative requirements; address new international maritime requirements; promote flexibility and efficiency in the use of marine radio equipment; and further maritime safety. Specifically, in the *Third Report and Order* the Commission (a) requires that DSC equipment comply with the most recent international standards for such equipment;³²⁶ (b) adds the INMARSAT Fleet F77 earth station to the list of ship earth stations that may be carried in lieu of a single sideband radio by vessels operating more than 100 nautical miles from shore;³²⁷ (c) expands the types of small passenger vessels that are required to carry a reserve power supply;³²⁸ (d) extends the license terms of GMDSS Radio Operator's Licenses, Restricted GMDSS Radio Operator's Licenses, GMDSS Radio Maintainer Licenses, GMDSS Operator/Maintainer Licenses, and Marine Radio Operator Permits from five years to the lifetime of the holder;³²⁹ (e) modifies the requirement that commercial operator license examination (COLE) managers use only the most recent question pool available to the public;³³⁰ (f) removes regulatory language specifying the specific number of questions to be used for each examination element;³³¹ (f) adopts rules authorizing COSPAS-SARSAT and INMARSAT D+ equipment for use in the Ship Security Alert System;³³² (g) updates references to international standards;³³³ (h) makes certain on-board frequencies available for narrowband operations;³³⁴ (i) permits remote control programming of maritime radio transmitters;³³⁵ (j) declines to eliminate

³²³ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

³²⁴ See Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications, *Second Report and Order*, *Sixth Report and Order*, and *Second Further Notice of Proposed Rule Making*, WT Docket No. 00-48, 19 FCC Rcd 3120, 3205-10 (2004) (*Second Further Notice*).

³²⁵ See 5 U.S.C. § 604.

³²⁶ See paras. 27-29, *supra*.

³²⁷ See para. 31, *supra*.

³²⁸ See paras. 35-37, *supra*.

³²⁹ See para. 41, *supra*.

³³⁰ See *id*.

³³¹ See *id*.

³³² See paras. 43-44, *supra*.

³³³ See para. 45, *supra*.

³³⁴ See *id*.

³³⁵ See para. 47, *supra*.

emission designators on non-distress frequencies;³³⁶ (k) declines to remove rules pertaining to Morse code radiotelegraphy;³³⁷ (l) declines to take action on certain proposals regarding frequency allotments and limitations for ship facsimile communications, radiotelephone public correspondence communications, and private maritime communications;³³⁸ and (m) adopts a number of non-substantive amendments to update and clarify the maritime radio service rules and correct typographical errors.³³⁹

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No comments were submitted specifically in response to the IRFA. However, some commenters raised concerns about the effect that two of the rule changes might have on small entities. Specifically, the Passenger Vessel Association (PVA) and the North Pacific Marine Radio Council (NPMRC) expressed concern about the burden on small entities of being required to comply with the more rigorous international standards that have been developed for digital selective calling (DSC) radio equipment.³⁴⁰ In addition, the National Marine Charter Association (NMCA) and PVA expressed concern about the burden of having to carry a reserve power supply on small entities who own or operate small passenger vessels of less than 100 gross tons.³⁴¹ We have considered the potential economic impact on small entities of these rules and the other rules discussed in the IRFA, and we have considered alternatives that would reduce the potential economic impact on small entities of the rules enacted herein, regardless of whether the potential economic impact was discussed in any comments.³⁴²

C. Description and Estimate of the Number of Small Entities to Which 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.³⁴³ The RFA defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”³⁴⁴ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.³⁴⁵ A small business concern is 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).³⁴⁶

Small businesses in the aviation and marine radio services use a marine very high frequency (VHF), medium frequency (MF), or high frequency (HF) radio, any type of emergency position indicating

³³⁶ See para. 48, *supra*.

³³⁷ See para. 49, *supra*.

³³⁸ See para. 50, *supra*.

³³⁹ See paras. 52-67, *supra*.

³⁴⁰ See paras. 28-29, *supra*, (citing, *inter alia*, PVA Comments at 3; NPMRC Comments at 1; NPMRC Reply Comments at 1).

³⁴¹ See paras. 36-37, *supra*, (citing, *inter alia*, NMCA *ex parte* presentation and PVA Comments at 1-3).

³⁴² See paras. 37-39, *supra*.

³⁴³ 5 U.S.C. § 603(b)(3).

³⁴⁴ *Id.* § 601(6).

³⁴⁵ *Id.* § 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, 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.” *Id.* § 601(3).

³⁴⁶ Small Business Act, 15 U.S.C. § 632 (1996).

radio beacon (EPIRB) and/or radar, an aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. For purposes of this FRFA, therefore, the applicable definition of small entity is the definition under the SBA rules applicable to wireless telecommunications. Pursuant to this definition, a “small entity” for purposes of the ship station licensees, public coast station licensees, or other marine radio users that may be affected by these rules, is any entity employing 1,500 or fewer persons. 13 C.F.R. § 121.201 (NAICS Code 517212).

Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.³⁴⁷ A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”³⁴⁸ Nationwide, as of 2002, there were approximately 1.6 million small organizations.³⁴⁹ The term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”³⁵⁰ Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.³⁵¹ We estimate that, of this total, 84,377 entities were “small governmental jurisdictions.”³⁵² Thus, we estimate that most governmental jurisdictions are small.

Wireless Service Providers. The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of “Paging”³⁵³ and “Cellular and Other Wireless Telecommunications.”³⁵⁴ Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year.³⁵⁵ Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.³⁵⁶ Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year.³⁵⁷ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of

³⁴⁷ See SBA, Programs and Services, SBA Pamphlet No. CO-0028, at page 40 (July 2002).

³⁴⁸ 5 U.S.C. § 601(4).

³⁴⁹ Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2002).

³⁵⁰ U.S.C. § 601(5).

³⁵¹ U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, Section 8, page 272, Table 415.

³⁵² We assume that the villages, school districts, and special districts are small, and total 48,558. See U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

³⁵³ 13 C.F.R. § 121.201, NAICS code 517211.

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³⁵⁵ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization,” Table 5, NAICS code 517211 (issued Nov. 2005).

³⁵⁶ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

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1,000 employees or more.³⁵⁸ Thus, under this second category and size standard, the majority of firms can, again, be considered small.

VHF Public Coast Stations. Some of the rules adopted herein affect VHF public coast station licensees. The Commission has 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 do 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 twelve 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.

Marine Radio Equipment Manufacturers. Some of the rules adopted herein may also affect small businesses that manufacture marine radio equipment. The Commission has not developed a definition of small entities applicable to marine radio equipment manufacturers. Therefore, the applicable definition is that for Wireless Communications Equipment Manufacturers. The Census Bureau defines this category as follows: “This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.”³⁵⁹ The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees.³⁶⁰ According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year.³⁶¹ Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999.³⁶² Thus, under this size standard, the majority of firms can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

In the *Third Report and Order*, we adopt two rule amendments that may affect reporting,

³⁵⁸ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

³⁵⁹ U.S. Census Bureau, 2002 NAICS Definitions, “334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing”; <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

³⁶⁰ 13 C.F.R. § 121.201, NAICS code 334220.

³⁶¹ U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005); <http://factfinder.census.gov>. The number of “establishments” is a less helpful indicator of small business prevalence in this context than would be the number of “firms” or “companies,” because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 2002, which was 929.

³⁶² *Id.* An additional eighteen establishments had employment of 1,000 or more.

recordkeeping and other compliance requirements for small entities.³⁶³ First, we amend Section 80.225 of the Rules³⁶⁴ to require that DSC equipment comply with more rigorous technical standards adopted by international bodies, ITU-R Recommendation M.493-11, ITU-R Recommendation M.541-9, and, in the case of Class D DSC radio equipment, IEC 62238.³⁶⁵ This rule amendment could affect small entities that manufacture DSC equipment or that own or operate vessels required to carry DSC equipment. Second, we amend Section 80.917 of the Rules³⁶⁶ to extend a pre-existing requirement for carriage of a reserve power supply³⁶⁷ to (a) small passenger vessels of less than 100 gross tons that carry more than 150 passengers or have overnight accommodations for more than forty-nine persons, and (b) small passenger vessels of less than 100 gross tons that operate on the high seas or more than three miles from shore on Great Lakes voyages.³⁶⁸ This extension of the reserve power supply requirement could affect small entities that own or operate small passenger vessels newly subject to the requirement.

In the IRFA accompanying the *Second Further Notice*, we specifically identified each of the above rule amendments as potentially affecting reporting, recordkeeping and other compliance requirements, and specifically requested comment on the economic impact of these changes.³⁶⁹

E. Steps Taken to Minimize the 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 developing its approach, which may include the following four alternatives (among others): “(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 and reporting requirements under the rule for such 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 such small entities.”³⁷⁰

Although we received no comments specifically addressed to the IRFA for the *Second Further Notice*, we have considered all comments to the *Second Further Notice* addressing the impact of any proposed change on small entities and all suggestions for alternative measures that would have a less significant impact on small entities. Moreover, even where we received no comments of this nature with regard to a particular new requirement, we considered the potential impact of the requirement on small entities, and considered alternatives. As noted above, we have identified two new requirements that may affect reporting, recordkeeping and other compliance requirements for small entities. We discuss both of these new requirements adopted in the *Third Report and Order*, and relevant alternatives, below.

In determining to adopt more stringent requirements for DSC radio equipment, we carefully considered the impact of such action on small entities that manufacture or use such equipment. We ultimately concluded that we should not exempt any entities from compliance with the new DSC technical

³⁶³ We discuss here those two rule amendments that impose new or additional requirements. The other decisions adopted in the *Third Report and Order* remove or relax existing requirements, or do not change existing requirements.

³⁶⁴ 47 C.F.R. § 80.225.

³⁶⁵ See paras. 27-29, *supra*.

³⁶⁶ See 47 C.F.R. § 80.917.

³⁶⁷ Prior to this amendment, the reserve power supply requirement was imposed only on small passenger vessels of more than 100 gross tons.

³⁶⁸ See para. 37, *supra*.

³⁶⁹ See *Second Further Notice*, 19 FCC Rcd at 3207-08.

³⁷⁰ 5 U.S.C. § 603(c)(1)-(4).

standards because indefinite reliance on equipment meeting the old standards could jeopardize the safety not only of passengers and crew on vessels using such equipment but also passengers and crew on other vessels.³⁷¹ In addition to the undisputed safety benefits of DSC equipment meeting the new standards, we took into account record evidence indicating that the cost of such equipment is not excessive. Three commenters responded to the Commission's request for information on the compliance costs of this requirement, and their consensus view is that the retail cost of DSC equipment meeting the new standards is not more than \$200, which is less than what DSC equipment meeting the earlier SC101 standard was retailing for just a few years ago.³⁷² Moreover, we have provided affected entities with significant relief through a phase-in of the new requirements plus grandfathering protections. Specifically, the Commission will continue to accept applications for certification of non-handheld DSC equipment meeting the SC101 standard until one year after the effective date of these rule amendments.³⁷³ In addition, the Commission will continue to accept applications for certification of handheld DSC equipment meeting the SC101 standard for a full four years after the effective date of the new rules.³⁷⁴ With respect to grandfathering protection, we are permitting the continued manufacture, importation, sale and installation of non-handheld SC101 radio equipment until three years after the effective of the new rules, and the continued manufacture, importation and sale of SC101 handheld units until seven years after the effective date.³⁷⁵ Finally, we are grandfathering indefinitely the use of any DSC equipment that was properly certified under the SC101 standard and placed in service prior to the expiration of the applicable three-year or seven-year grandfathering period; such equipment, therefore, may continue to be used until the end of its useful life.³⁷⁶ We conclude that these measures effectively mitigate the burden on small entities of complying with the new DSC standards, reasonably further the goals of the RFA, and allow a resolution of this matter that fairly balances the public interest in maritime safety with the public interest in reducing regulatory burdens on small entities.

We also carefully considered the impact on small entities of expanding the Section 80.917 requirement to carry a reserve power supply to additional classes of small passenger vessels.³⁷⁷ We have decided to expand this requirement because we believe that a reserve power supply "can make a life-or-death difference for passengers and crew on board a passenger vessel in distress."³⁷⁸ We also have

³⁷¹ See para. 27, *supra*, discussing the enhanced safety features of equipment meeting the new standards. A vessel using equipment that does not conform to the new standards might not hear distress calls from other vessels if the receiver is in use for another call. However, the new IEC 62238 standard requires two-receiver functionality to rectify that problem. Thus, the continued use of equipment that does not comply with the new standard could endanger not only the vessel on which that equipment is used, but also other vessels. In sum, the safety of the entire maritime community would be diminished if some classes of vessels were permanently exempted from the new DSC equipment standards.

³⁷² See para. 28, *supra*.

³⁷³ See para. 29, *supra*. Although other commenters, including the Coast Guard, recommended that certification of new non-handheld DSC radios terminate ninety days after the effective date of these amendments, and another commenter recommended a six-month period, we have adopted the more lenient one-year transition period advocated by NPMRC, to better ensure that manufacturers' investment in the design and manufacture of SC101 radios is not stranded and to also ease the potential compliance burden on vessel operators and owners. *Id.*

³⁷⁴ *Id.* A longer transition period and a longer period of grandfathering protection is warranted for handheld equipment because of the greater design challenges involved in incorporating additional safety features in units of smaller size. *Id.*

³⁷⁵ *Id.*

³⁷⁶ *Id.*

³⁷⁷ See 47 C.F.R. § 80.917; paras. 35-37, *supra*.

³⁷⁸ See para. 35, *supra*. As explained in the *Third Report and Order*, without a reserve power supply, a small passenger vessel may be unable to communicate via radiotelephone with search and rescue personnel in an emergency, and that inability to communicate could jeopardize the safety of those on board. *Id.*

considered whether there are less costly alternatives to a reserve power supply that would be equally effective in addressing this safety concern. We conclude that no such less costly alternatives exist.³⁷⁹ However, in the interest of minimizing regulatory burdens on small entities, such as small charter boat operators, that own and operate small passenger vessels, we are not expanding the requirement to *all* small passenger vessels, although we did consider that option.³⁸⁰ Instead, we are expanding the reserve power supply requirement to those vessels where it will provide potentially the greatest value in terms of maritime safety – vessels with a relatively large passenger capacity and vessels that travel relatively great distances from shore – and where the costs can most readily be absorbed. Specifically we are extending the reserve power supply requirement to (a) small passenger vessels of less than 100 gross tons that carry more than 150 passengers or have overnight accommodations for more than forty-nine persons;³⁸¹ and (b) small passenger vessels of less than 100 gross tons that carry not more than 150 passengers or have overnight accommodations for not more than forty-nine persons,³⁸² *and* that are required to carry EPIRBs under the Coast Guard’s Navigation and Vessel Inspection Circular No. 3-99, *i.e.*, that operate on the high seas or more than three miles from shore on Great Lakes voyages.³⁸³ We believe that this rule adequately addresses the concerns of NMCA and PVA that a reserve power supply requirement not be imposed on the smallest of small passenger vessels, such as small charter fishing boats, that remain relatively close to shore and generally carry only a few passengers at a time.³⁸⁴ In fact, this resolution was proposed by PVA.³⁸⁵ In addition, this approach appropriately takes into account a vessel’s passenger capacity and area of operation in weighing the costs and benefits of imposing the reserve power supply requirement. We are persuaded by the Coast Guard’s endorsement of this approach,³⁸⁶ moreover, that it gives appropriate weight to the interest in maritime safety at the same time that it furthers the goals of the RFA. Finally, to further mitigate the burden on the owners and operators of small passenger vessels newly subject to the reserve power supply requirement, we provide them with up to one year after the effective date of this rule amendment to install the requisite reserve power supply.³⁸⁷

F. Report to Congress

The Commission will send a copy of the *Third Report and Order* in WT Docket No. 00-48, including the Final Regulatory Flexibility Analysis, in a report to be sent to Congress and the Congressional Budget Office pursuant to the Congressional Review Act.³⁸⁸ In addition, the Commission will send a copy of the *Third Report and Order* in WT Docket No. 00-48, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA. A copy of the *Third Report and*

³⁷⁹ *Id.*

³⁸⁰ See para. 37, *supra*. Such a result could be accomplished simply by removing the tonnage limitation that is now set forth in Section 80.917, 47 C.F.R. § 80.917(a).

³⁸¹ This is the class of vessels subject to subchapter K of the Coast Guard regulations, 46 C.F.R. §§ 114.100-122.910.

³⁸² This is the class of vessels subject to subchapter T of the Coast Guard regulations, 46 C.F.R. §§ 175.100-185.910.

³⁸³ See Navigation and Vessel Inspection Circular No. 3-99, “Global Maritime Distress and Safety System (GMDSS) and Emergency Position Indicating Radiobeacon (EPIRB) Equipment Requirements for Commercial Vessels,” Table 3, note 9 (1999) (NVIC 3-99).

³⁸⁴ See para. 37, *supra*.

³⁸⁵ See PVA Comments at 1-2.

³⁸⁶ See USCG Reply Comments at 3.

³⁸⁷ See para. 38, *supra*.

³⁸⁸ See 5 U.S.C. § 801(a)(1)(A).

Order in WT Docket No. 00-48 and the Final Regulatory Flexibility Analysis (or summaries thereof) will also be published in the Federal Register.³⁸⁹

³⁸⁹ *See id.* § 604(b).

APPENDIX D

Initial Regulatory Flexibility Analysis

(*Third Further Notice of Proposed Rule Making* in WT Docket No. 00-48)

As required by the Regulatory Flexibility Act (RFA),³⁹⁰ the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Third Further Notice of Proposed Rule Making* in WT Docket No. 00-48 (*Third Further Notice*). 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 *Third Further Notice* as provided in paragraph 82 of the item, *supra*. The Commission will send a copy of the *Third Further Notice*, including the IRFA, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.³⁹¹ In addition, the *Third Further Notice* and IRFA (or summaries thereof) will be published in the Federal Register.³⁹²

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

In the *Third Further Notice*, we seek comment on rule amendments that are intended to enhance maritime safety, promote the efficient use of the maritime radio spectrum, and, to the extent consistent with these first two objectives, remove unnecessary regulatory burdens. We also seek to conform the Commission's Part 80 rules with international standards where doing so will not undermine domestic regulatory objectives. In the *Third Further Notice*, we first request comment on whether we should remove Part 80 regulatory provisions providing for the certification and authorizing the use of INMARSAT-E EPIRBs in light of the planned cessation of service to such EPIRBs as of December 1, 2006.³⁹³ Second, we invite comment on a Coast Guard recommendation to require that VHF DSC handheld radios include an integral GPS capability to ensure that distress calls include accurate location information.³⁹⁴ Third, we ask commenters to consider whether small passenger vessels that do not have a reserve power supply should be required to carry at least one VHF marine radio transceiver.³⁹⁵ Fourth, we request comment on whether additional frequencies should be made available for ship station facsimile use, and whether the Commission should permit the transmission of data on VHF maritime voice channels.³⁹⁶ Fifth, we request comment on whether we should remove certain restrictions on the assignment of frequencies to private coast stations and marine utility stations in light of the current demand for such frequencies.³⁹⁷ Sixth, we solicit comment on updating the standards for ship radar equipment.³⁹⁸ Finally, we request comment on the proposed addition of a rule to Subpart W of Part 80 to

³⁹⁰ 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) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

³⁹¹ *Id.* § 603(a).

³⁹² *See id.*

³⁹³ *See* para. 68, *supra*.

³⁹⁴ *See* paras. 69-70, *supra*.

³⁹⁵ *See* para. 71, *supra*.

³⁹⁶ *See* para. 72, *supra*.

³⁹⁷ *See* para. 73, *supra*.

³⁹⁸ *See* para. 74, *supra*.

clarify the continued applicability of a daily radiotelephone testing requirement to GMDSS vessels subject to Subpart W.³⁹⁹

B. Legal Basis for Proposed Rules

The proposed action is authorized under sections 4(i), 303(r), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 332(a)(2).

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.⁴⁰⁰ The RFA defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁴⁰¹ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁴⁰² A small business concern is 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).⁴⁰³ A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”⁴⁰⁴ Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.⁴⁰⁵ A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”⁴⁰⁶ Nationwide, as of 2002, there were approximately 1.6 million small organizations.⁴⁰⁷ The term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”⁴⁰⁸ Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.⁴⁰⁹ We estimate that, of this total, 84,377 entities were “small governmental jurisdictions.”⁴¹⁰ Thus, we estimate that most governmental jurisdictions are

³⁹⁹ See para. 75, *supra*.

⁴⁰⁰ 5 U.S.C. § 603(b)(3).

⁴⁰¹ 5 U.S.C. § 601(6).

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⁴⁰⁹ U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, Section 8, page 272, Table 415.

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small. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by adoption of rules discussed in the *Third Further Notice*.

Small businesses in the aviation and marine radio services use a marine very high frequency (VHF), medium frequency (MF), or high frequency (HF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, an aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. For purposes of this IRFA, therefore, the applicable definition of small entity is the definition under the SBA rules applicable to wireless telecommunications. Pursuant to this definition, a “small entity” for purposes of the ship station licensees, public coast station licensees, or other marine radio users that may be affected by these rules, is any entity employing 1,500 or fewer persons. 13 C.F.R. § 121.201 (NAICS Code 517212).

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⁴¹¹ 13 C.F.R. § 121.201, NAICS code 517211.

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

We believe three of the possible rule changes discussed in the *Third Further Notice* may potentially have a direct, significant economic impact on a substantial number of small entities.⁴²¹ As noted, we have requested comment on whether to require GPS capability in VHF-DSC handheld radios, on whether to require that small passenger vessels carry at least one VHF handheld marine radio transceiver, and on whether to update the standards for ship radar equipment. We invite interested parties to address the economic impact of these possible rule changes on small vessel operators, small marine radio equipment manufacturers and other small businesses that may be subject to the new requirements. We seek information on whether the compliance costs may outweigh the safety benefits of these rule changes, and whether there are alternative means of securing the safety benefits of these requirements through means that are less burdensome to regulatees.

We do not believe any of the other matters discussed in the *Third Further Notice* would have a direct, significant economic impact on a substantial number of small entities. However, any commenters that disagree with that tentative conclusion are asked to explain the basis of that disagreement.

⁴¹⁷ U.S. Census Bureau, 2002 NAICS Definitions, “334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing”; <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

⁴¹⁸ 13 C.F.R. § 121.201, NAICS code 334220.

⁴¹⁹ U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005); <http://factfinder.census.gov>. The number of “establishments” is a less helpful indicator of small business prevalence in this context than would be the number of “firms” or “companies,” because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 2002, which was 929.

⁴²⁰ *Id.* An additional eighteen establishments had employment of 1,000 or more.

⁴²¹ We believe the discussed rules concerning INMARSAT-E earth stations, ship station facsimile frequencies, and private coast station frequencies would not impose any new reporting, recordkeeping, or other compliance requirement on any regulated entity.

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, among others: (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.⁴²²

In the *Third Further Notice*, we ask that commenters provide information on the incremental cost to manufacturers and consumers if the Commission were to adopt a requirement for GPS capability in VHF-DSC handheld units.⁴²³ We describe here, and seek comment on, possible alternatives to imposing such a requirement that might minimize the economic impact on small entities. First, we ask commenters to consider whether it would be appropriate to exempt any class of small entities from such a requirement. Commenters advocating such an exemption should propose criteria for identifying entities that should be exempt, and should explain why they believe such an exemption represents a reasonable compromise between the goals of promoting maritime safety and minimizing compliance costs for small entities. In addition, if we do determine to impose a new requirement for GPS capability in VHF-DSC handheld radio equipment, we would consider whether we should continue to certify VHF-DSC equipment without such capability for a specified additional period of time, and/or whether we should adopt grandfathering protections to allow the continued sale and use of such non-GPS VHF-DSC handheld equipment for a specified period of time or indefinitely. Interested parties should address these alternatives. Finally, we seek comment on whether an alternative, less costly equipment requirement could adequately address the concern that distress communications include accurate coordinates for the vessel in distress.

In the *Third Further Notice*, we also seek comment on whether the Commission should require carriage of at least one VHF handheld marine radio transceiver on small passenger vessels that do not carry a reserve power supply.⁴²⁴ Our understanding is that such handheld radio equipment can be purchased for under fifty dollars at retail, making it a far less expensive proposition for small vessel owners and operators than would expanding the reserve power supply requirement to all small passenger vessels, regardless of size. Notwithstanding the relative inexpensiveness of VHF handheld marine radios, and the important safety benefits that would accrue from imposing such a carriage requirement, we request that interested parties to address whether the costs of such a requirement would outweigh the safety benefits, and to suggest any alternatives, exemptions or phased-in implementation schedules that the Commission might adopt to reduce the compliance burden of such a requirement on small entities.

In the *Third Further Notice*, we also invite comment on revising the standards for ship radar equipment.⁴²⁵ We seek comment on the impact of such a revision on radar equipment manufacturers and on the owners and operators of vessels required to be fitted with radar equipment. Given that we contemplate amending our rules only to reflect the most up-to-date international standards for ship radar equipment, we question whether such an amendment would impose any new compliance burden on small entities, since they may already be required to, or have decided it is prudent to, manufacture and use equipment that conforms to those international standards. To the extent such an amendment would be deemed to create a new compliance burden, we ask interested parties whether and how that burden can be eliminated or mitigated for small entities, both small manufacturers and small owners and operators of

⁴²² See 5 U.S.C. § 603(c).

⁴²³ See para. 70, *supra*.

⁴²⁴ See para. 71, *supra*.

⁴²⁵ See para. 72, *supra*.

vessels fitted with radar equipment. Commenters should consider the possibility of retaining the existing Part 80 radar standards, incorporating by reference only some of the newer international radar standards, exempting certain entities from the requirement to comply with the newer international radar standards, and/or providing transition periods before compliance is required (so that, *e.g.*, radar equipment can still be certified based on compliance with the current standards for a specified period of time) and grandfathering protection (to permit the continued manufacture, sale, importation, and use of radar equipment certified under the old standards, either for a specified period of years or indefinitely). Commenters are also invited to suggest alternatives other than those discussed here.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

None.