

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
VESPER MARINE LTD.) **WT Docket No. 16-6**
Request for Waiver to Permit Certification and)
Use of Automatic Identification System Virtual)
Aid to Navigation)

To: The Chief, Wireless Telecommunications Bureau
Via: The ECFS

AMENDMENT TO WAIVER REQUEST

Vesper Marine Ltd. (Vesper), Petitioner in the above-captioned proceeding and a manufacturer of certain electronic products, hereby respectfully submits this Amendment to its pending Request for Waiver filed November 6, 2015, in order to clarify its plans for obtaining necessary approvals to market and sell its Automatic Identification System (AIS) Aid to Navigation (AtoN) to customers, and the need for immediate grant of the pending waiver request. Vesper, through counsel, states as follows:

1. In response to Vesper's waiver request, Wireless Bureau issued a *Public Notice*, DA 16-17, released January 8, 2016. No comments or replies were filed in response to the *Public Notice* and Vesper's waiver request remains unopposed to date. The Public Notice states that Vesper seeks a waiver in order to permit certification and use of AtoN Model VAB1252 pursuant to Section 80.17(b) pertaining to maritime stations on land.

2. This requires some clarification. It is understood that the Commission does not presently have a mechanism for licensing AIS AtoNs under Part 80. Vesper is aware that there is

presently a proceeding that has been initiated¹ in which the Commission may develop a licensing procedure for non-Federal deployment of these devices. Nevertheless, the Commission has on four prior instances heretofore granted equipment authorization to manufacturers of AIS AtoNs.² Authorized Telecommunication Certification Bodies (TCBs) have granted equipment authorization to six other AtoNs. A grant of FCC Equipment Authorization is a necessary prerequisite for compliance with 33 C.F.R. §66.01-5, which requires that the United States Coast Guard grant an application before any party, Federal or non-Federal, may establish, maintain, discontinue, change or transfer ownership of a private aid to navigation. The Coast Guard will not process an application without FCC certification having been granted. See, 33 C.F.R. §66.01-5(i), which lists components of the Coast Guard application process for AIS AtoNs and racons. The last sentence of that subsection states that “[e]quipment must have FCC authorization.”

3. Vesper is the manufacturer, but not the end user of its AIS AtoN product. Vesper is aware that the purchasers of these AtoN devices will have to comply with whatever licensing scheme the Commission should develop in the Part 80 service rules. Therefore, the purpose of the waiver sought in this proceeding is no more and no less than to enable Vesper to obtain Coast Guard approval for the AtoN product and therefore Vesper asks only for the grant of an appropriate waiver to permit a TCB grant of equipment authorization for the purpose of obtaining Coast Guard authorization for the AtoN. After that, it will become the purchaser/end user’s obligation to comply with whatever licensing processes are ultimately adopted by the

¹ See, the *Public Notice*, DA 16-398, released April 14, 2016 which solicits comments on RM-11765; *Wireless Telecommunications Bureau Seeks Comment on Radio Technical Commission for Maritime Services Petition for Rulemaking to Update Part 80 of the Commission’s Rules*.

² See, e.g. FCC Identifier: 2AEYIV AIS1; Name of Grantee: Vega Industries Ltd.; FCC Identifier: IB20ATN01 Name of Grantee: L3 Communications; FCC Identifier: IB20ATN01, Name of Grantee: L3 Communications; and FCC Identifier: WZ7ATON301303; Name of Grantee: Alltek Marine Electronics Corporation.

Commission.³ Vesper does not ask for authority to operate the device through this waiver proceeding. Vesper asks that its instant AtoN product, model VAB1252 Virtual AIS Beacon be given the same regulatory treatment as have the ten previously granted AIS AtoNs; Vesper will then provide sufficient information to its customers to permit them to obtain necessary FCC operating authority through the various procedural methods available at any given time. It is necessary, however, that there be no further delay in the processing of this waiver and that Vesper's need for equipment authorization be handled consistently with the Commission's prior actions on the previous AIS AtoNs.

Therefore, the foregoing considered, Vesper Marine Ltd. again respectfully requests that the Commission grant the waiver and permit Vesper Marine Ltd. to obtain a fast TCB equipment authorization grant and then apply to the Coast Guard for its authority for the product.

Respectfully submitted,

Vesper Marine, Ltd.

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May 3, 2016

³ Vesper anticipates that private sector entities which wish to install and operate an AtoN will do so only after obtaining either an FCC license or, in the interim, an Experimental Authorization or Special Temporary Authorization. Vesper will assist in this effort as necessary.