

FEDERAL REGISTER

Federal Communications Commission

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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	)	RM-9499
Globe Wireless, Inc.	)	
	)	
Federal Communications Bar Association's	)	
Petition for Forbearance from Section 310(d)	)	
of the Communications Act Regarding Non-	)	
Substantial Assignments of Wireless Licenses	)	
and Transfers of Control involving	)	
Telecommunications Carriers	)	
	)	
and	)	
	)	
Personal Communications Industry Association's	)	
Broadband Personal Communications Services	)	
Alliance's Petition for Forbearance for Broadband	)	
Personal Communications Services	)	
	)	

**NOTICE OF PROPOSED RULE MAKING**

**AND**

**MEMORANDUM OPINION AND ORDER**

**Adopted: March 17, 2000**

**Released: March 24, 2000**

**Comment Date:** [90 days after Federal Register publication]  
**Reply Comment Date:** [120 days after Federal Register publication]

By the Commission:

## TABLE OF CONTENTS

Title	Paragraph
I. INTRODUCTION .....	1
II. NOTICE OF PROPOSED RULE MAKING .....	4
A. EXECUTIVE SUMMARY .....	4
B. BACKGROUND .....	5
C. DISCUSSION.....	14
1. Update of Part 80 Rules and Regulations.....	14
a. Global Maritime Distress and Safety System (GMDSS) [Subpart W] .....	15
b. Compulsory Radiotelegraph Installations for Vessels 1600 Gross Tons [Subpart Q] .....	18
c. General Technical Standards [Subpart E] .....	21
d. Safety Watch Requirements and Procedures [Subpart G] .....	23
e. Frequencies [Subpart H].....	25
f. Compulsory Radiotelephone Installations for Vessels 300 Gross Tons [Subpart R]..	27
g. Emergency Position Indicating Radiobeacons (EPIRBs) [Subpart V].....	29
2. Fishing Vessels and the GMDSS .....	31
3. Commercial Operator Licenses .....	34
a. Restricted GMDSS Radio Operator's License.....	34
b. Credit for Proof of Passing U.S. Coast Guard Training.....	37
III. MEMORANDUM OPINION AND ORDER.....	40
IV. CONCLUSION.....	44
V. PROCEDURAL MATTERS .....	45
A. Ex Parte Rules - Permit-But-Disclose Proceeding .....	45
B. Regulatory Flexibility Act .....	46
C. Comment Dates.....	47
D. Ordering Clauses .....	51
E. Further Information.....	55

Appendix -- Proposed Rules

## I. INTRODUCTION

1. In this *Notice of Proposed Rule Making (Notice)*, we propose to consolidate, revise, and streamline our Rules governing maritime communications pursuant to requests from the National GMDSS Implementation Task Force (GMDSS Task Force)<sup>1</sup> and Globe Wireless, Inc. (Globe Wireless).<sup>2</sup> The purpose of these proposed rule changes is to address new international maritime requirements, improve the operational ability of all users of marine radios and remove unnecessary or duplicative requirements from our Rules.

2. As described below, as of February 1, 1999, all elements of the Global Maritime Distress and Safety System (GMDSS) became fully operable.<sup>3</sup> Consequently, certain rules applicable to past safety systems have become obsolete or redundant. Generally, we propose to (a) revise our Rules to implement changes in International Maritime Organization (IMO)<sup>4</sup> or International Telecommunication Union (ITU)<sup>5</sup> regulations or standards; (b) delete or modify rules affected by full implementation of the GMDSS, such as Subparts Q (Compulsory Radiotelegraph Installations for Vessels 1600 Gross Tons), R (Compulsory Radiotelephone Installations for Vessels 300 Gross Tons), and W (Global Maritime Distress and Safety System (GMDSS)); and (c) delete or modify any other regulations that are deemed to be unnecessary or in need of clarification.<sup>6</sup> We believe this proposed action will not only reduce significantly the number of regulations applicable to the maritime community, but by removing duplicative regulations, it will reduce the potential for confusion. In an effort to clarify the existing regulations, we also propose to make minor and non-substantive modifications to Part 80 of our Rules.<sup>7</sup> We invite comment on these proposed changes and any other related modifications that would be in the public interest.

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<sup>1</sup>U.S. GMDSS Task Force Petition to Create a Restricted GMDSS Radio Operator's License, Petition for Rule Making, January 14, 1998 (GMDSS Petition); Letter from Captain Jack Fuechsel, Exec. Director, U.S. GMDSS Implementation Task Force to Thomas J. Sugrue, Chief, Wireless [Telecommunications] (sic) Bureau, April 30, 1999 (GMDSS Letter). The GMDSS Task Force is a group of government authorities, commercial vessel owners and operators, training institutions, service agents, manufacturers, and labor organizations chartered by the U.S. Coast Guard to supplement government functions in expediting the implementation of the GMDSS.

<sup>2</sup>Globe Wireless Petition for Rule Making for the Amendment of Section 80.357 of the Commission's Rules to Conform to WRC-99 and to Promote the Use of Advanced Communications Technologies in the Maritime Services, RM-9499, February 17, 1999 (Globe Wireless Petition). Globe Wireless is a public coast station operator.

<sup>3</sup>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*, 7 FCC Rcd 951, Appendix C (1992) (*GMDSS Order*). See also 47 C.F.R. § 80.1065(b)(4).

<sup>4</sup>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.

<sup>5</sup>The ITU is an agency of the United Nations that specifies regulations for radio matters, such as operating procedures and frequency allotments.

<sup>6</sup>For instance, we propose to eliminate the obsolete Class C EPIRB. See *infra* para. 30.

<sup>7</sup>See Appendix hereto for proposed rule changes.

3. In this *Memorandum Opinion and Order*, we extend forbearance from the requirements of Section 310(d) of the Communications Act of 1934, as amended (Communications Act)<sup>8</sup> for pro forma applications to telecommunications carriers licensed and regulated under Part 80 of our Rules. Accordingly, we grant the Petition for Reconsideration filed by WJG MariTEL Corporation to include telecommunications carriers licensed under Part 80 of our Rules within the ambit of the *Forbearance MO&O*.<sup>9</sup>

## II. NOTICE OF PROPOSED RULE MAKING

### A. EXECUTIVE SUMMARY

4. In this *Notice*, we propose to consolidate, revise, and clarify provisions in Parts 13 and 80 of our Rules governing maritime communications. Specifically, we seek comment on the following:

- The proposed modification of our rules to reflect revised international standards and recommendations which were endorsed by the IMO and ITU, many at the initiation of the United States; and to reflect significant changes in IMO and ITU performance standards and regulations.
- Global Wireless's Petition proposing to allow radio-teletypewriter, data, telemetry, and telecommand transmissions on frequencies reserved for Morse code transmissions.
- Applying our GMDSS rules to the commercial fishing industry.
- Creating a new Restricted GMDSS Radio Operator License to provide a subordinate class of GMDSS license for radio operators aboard ships that operate exclusively within Sea Area A1 (an area extending approximately 20 miles from the coast).
- Accepting a proof of passing certificate from the United States Coast Guard (U.S. Coast Guard) training program as evidence that an applicant has met the obligations for any GMDSS operator license issued by the Commission.
- Removing the certification for Class A, B, and S emergency position indicating radiobeacons (EPIRBs), which operate at 121.5 MHz and 243 MHz.

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<sup>8</sup>47 U.S.C. § 310(d).

<sup>9</sup>See Federal Communications Bar Association's Petition for Forbearance from Section 310(d) of the Communications Act Regarding Non-Substantial Assignments of Wireless Licenses and Transfers of Control Involving Telecommunications Carriers and Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for Forbearance For Broadband Personal Communications Services, FCC 98-18, *Memorandum Opinion and Order*, 13 FCC Rcd. 6293, 6313 ¶¶ 39-40 (1998) (*Forbearance MO&O*).

## B. BACKGROUND

5. The GMDSS is primarily a ship-to-shore system (though it has ship-to-ship capabilities) for the transmission of distress communications.<sup>10</sup> Instead of manual Morse code radiotelegraphy, the system utilizes automated (or semi-automated) communications via satellite, and advanced terrestrial systems using digital selective calling (DSC).<sup>11</sup> DSC is a digital signaling system that allows ship and shore stations to call each other directly, rather than requiring a radio operator to continuously monitor a common calling channel to identify specific calls directed to the station.<sup>12</sup>

6. In 1988, the IMO amended the Final Acts of the Conference of Contracting Governments to the International Convention on the Safety of Life at Sea, 1974 (*SOLAS Convention*)<sup>13</sup> to provide for the implementation of the GMDSS on a worldwide basis. The amendments provided for a phased-in implementation schedule between February 1, 1992, and February 1, 1999.<sup>14</sup> According to international regulations, certain ships that sail in international waters are subject to the *SOLAS Convention*, and are required to carry certain GMDSS radio equipment for safety purposes.<sup>15</sup> These ships are called "compulsory ships." Under the *SOLAS Convention*, compulsory ships include all passenger ships that carry more than twelve passengers and all cargo ships of 300 gross tons and over which are engaged on international voyages.<sup>16</sup> Other ships, called "voluntary ships," carry the same radio equipment even though they are not required to do so. To complement the GMDSS changes made by compulsory ships, some voluntary ships installed GMDSS radio equipment to enhance both their communications capabilities and their ability to alert rescue authorities during distress.<sup>17</sup>

7. To implement the requirements of the *SOLAS Convention*, the Commission, on January 16, 1992, adopted rules implementing the GMDSS in the United States.<sup>18</sup> Our rules required the installation of a full array of GMDSS radio equipment on all United States compulsory ships by February 1, 1999.<sup>19</sup>

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<sup>10</sup>See *GMDSS Order*, 7 FCC Rcd at 952-54 ¶¶ 4-10.

<sup>11</sup>*Id.* at 952 ¶ 4.

<sup>12</sup>*Id.*

<sup>13</sup>Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1978: Articles, Annexes and Certificates, Incorporating all Amendments in Effect from 1 July 1997, International Maritime Organization, London, 1997 (*SOLAS Convention*).

<sup>14</sup>See *SOLAS Convention*, Chapter IV.

<sup>15</sup>See *SOLAS Convention*, Chapter IV, Part A, Regulation 1.

<sup>16</sup>See 46 C.F.R. § 24.10-13(b) (The term "international voyage" as used in this section has the same meaning as contained in Regulation 2(d), Chapter 1 of the *SOLAS Convention*, i.e., "International voyage means a voyage from a country to which the present convention applies to a port outside such country, or conversely.").

<sup>17</sup>In the past five years, 8183 voluntarily equipped vessels have requested and been assigned a Maritime Mobile Service Identity. Of the 8183 vessels, 3039 have been assigned in the past two years.

<sup>18</sup>See *GMDSS Order*, 7 FCC Rcd at 953 ¶ 10.

<sup>19</sup>47 C.F.R. § 80.1065(b)(4).

To remain consistent with the latest international standards, the Commission incorporated by reference<sup>20</sup> several performance standards of the IMO, recommendations and regulations of the ITU and publications of the International Electro-technical Commission (IEC)<sup>21</sup> and the International Standards Organization (ISO).<sup>22</sup> Since 1992, many of these standards have been revised.

8. Under the GMDSS, ships are required to carry varying amounts of communications equipment to provide a distress signal to the shore facilities depending upon which of the four "Sea Areas" the vessel operates.<sup>23</sup> Each country identifies its four Sea Areas (A1 through A4) and then notifies the IMO. Sea Area A1 is an area within the radiotelephone coverage of at least one very high frequency (VHF) coast station in which continuous DSC is available.<sup>24</sup> Sea Area A2 is an area, excluding Sea Area A1, within the radiotelephone coverage of at least one medium frequency (MF) coast station at which continuous DSC is available.<sup>25</sup> Sea Area A3 is an area, excluding Sea Areas A1 and A2, within coverage of an International Maritime Satellite Organization's (INMARSAT) maritime mobile geostationary satellite in which continuous alerting is available.<sup>26</sup> Sea Area A4 is the area outside of Sea Areas A1, A2 and A3.<sup>27</sup>

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<sup>20</sup>See 47 C.F.R. § 80.1101; see also Nonsubstantive and Editorial Amendments of Part 80, Subpart W of the Commission's Rules Regarding the Global Maritime Distress and Safety System (GMDSS), *Order*, 7 FCC Rcd 6252, Appendix (1992).

<sup>21</sup>The IEC is an international non-governmental organization engaged in the development of broadcast technology standards that 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.

<sup>22</sup>The ISO is an international non-governmental organization engaged in the development of broadcast technology standards that 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.

<sup>23</sup>Waiver of Certain Global Maritime Distress and Safety System (GMDSS) Rules Applicable to Fishing Vessels and Small Passenger Vessels, *Order*, 14 FCC Rcd 528, 530 ¶ 10 (1998) (*Fishing Vessel Order*).

<sup>24</sup>This area would extend approximately 20-30 miles, depending on propagation. 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, *Notice of Proposed Rule Making*, PR Docket No. 90-480, 5 FCC Rcd 6212, 6213 ¶ 10 (1990) (*GMDSS NPRM*).

<sup>25</sup>The outer limit of Sea Area A2 would extend approximately 75-150 miles. *Id.* at 6213 ¶ 10.

<sup>26</sup>This area would include an area between 70° N Latitude and 70° S Latitude, which is within the footprint of the INMARSAT system. *Id.* at 6213 ¶ 10. The INMARSAT system provides a satellite communications system which makes a full range of distress alerting and communications capabilities, including voice, telex and facsimile, available.) *Id.* at 6213 ¶ 13.

<sup>27</sup>This area essentially includes the Polar Regions. *Id.*; 47 C.F.R. § 80.1069; *GMDSS Order*, 7 FCC Rcd at 952 ¶ 6.

9. At present, Sea Areas A1 and A2 are not established along the U.S. coastline because the requisite shore-based VHF and MF equipment is not yet in place.<sup>28</sup> Thus, in accordance with our Rules, a full array of Sea Areas A3 or A4 radio equipment must be installed on compulsory ships that sail in United States waters.<sup>29</sup> Because Sea Areas A3 and A4 contemplate long ocean voyages, a significant amount of highly sophisticated equipment is required in addition to that equipment required for Sea Areas A1 or A2, resulting in substantially higher equipment costs.<sup>30</sup>

10. In 1998, because Sea Areas A1 and A2 were not established in United States waters, we issued a temporary, conditional waiver of the GMDSS rules for fishing vessels of 300 gross tons or more, and small passenger vessels.<sup>31</sup> We delegated to the Chief of the Wireless Telecommunications Bureau (Bureau) the authority to terminate the conditional waiver as it applies to small passenger vessels, but no sooner than six months following the establishment of Sea Areas A1 and A2 for the United States.<sup>32</sup> The waiver as it applies to fishing vessels was granted pending completion of a rule making proceeding addressing whether such fishing vessels should be required to comply with the Commission's GMDSS rules.<sup>33</sup> This *Notice* marks the beginning of such proceeding.

11. Since 1992, the IMO and ITU have amended their Standards, Recommendations, and Regulations to clarify existing requirements and procedures in light of knowledge gained during the initial implementation of the GMDSS and to address new GMDSS requirements. As a result of the international amendments, we have received three petitions seeking amendments to our maritime rules. On January 14, 1998, the GMDSS Task Force requested that we amend our Rules to create an additional class of GMDSS Radio Operator's License in order to improve the safety of vessels at sea.<sup>34</sup> Parts 13 and 80 of our Rules currently specify the radio operator licenses and the radio equipment requirements for U.S. vessels. These Rules are based on international requirements contained in the *SOLAS Convention* and similar domestic requirements contained in the Communications Act.<sup>35</sup> Certain of the Maritime Service rules, particularly Subpart W of Part 80 of our Rules,<sup>36</sup> are no longer applicable because other regulations (of the FCC and other U.S. or international agencies) have changed.

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<sup>28</sup>*Fishing Vessel Order*, 14 FCC Rcd at 530 ¶ 4. By 2006, it is expected that all Sea Area A1 installations will be completed and the U.S. Coast Guard will declare Sea Area A1 operational for the continental United States. The target date to complete all Sea Area A2 installations and for the U.S. Coast Guard to declare Sea Area A2 operational for the continental United States is March 2000. See U.S. Coast Guard Implementation Strategy for GMDSS Sea Area A2 (Oct. 1999).

<sup>29</sup>*Id.*

<sup>30</sup>*Id.*

<sup>31</sup>*Id.* at 535 ¶ 13.

<sup>32</sup>*Id.*

<sup>33</sup>*Id.* at 534 ¶ 11.

<sup>34</sup>GMDSS Petition.

<sup>35</sup>47 U.S.C. §§ 351-64.

<sup>36</sup>47 C.F.R. Part 80, Subpart W.

12. On February 17, 1999, Globe Wireless filed a petition for rule making proposing to amend Section 80.357 of our Rules<sup>37</sup> to conform this rule to the requirements reached in the 1997 World Radiocommunication Conference (WRC-97) and to promote the use of advanced communications technologies in the maritime service.<sup>38</sup> Specifically, Globe Wireless proposes to allow radio-teletypewriter (J2B), data, telemetry, and telecommand (J2D) transmissions on the frequencies currently reserved for Morse Code transmissions (A1A) under Section 80.357 of our Rules.

13. On April 30, 1999, the GMDSS Task Force recommended deleting, adding, or modifying approximately 375 regulations in Part 80 of our Rules.<sup>39</sup> These recommendations note changes that the GMDSS Task Force believes are required to accommodate the implementation of GMDSS as well as to update obsolete sections in Part 80 of our Rules.

## C. DISCUSSION

### 1. Update of Part 80 Rules and Regulations

14. By this *Notice*, we propose to incorporate the relevant current IMO and ITU Standards, Recommendations, and Regulations into our Rules; to clarify our Rules where warranted; and to revise our Rules as appropriate to remove any unnecessary or duplicative rules. In this connection, we note that certain decisions of the IMO in recent amendments to the *SOLAS Convention*<sup>40</sup> affect Subpart W, while

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<sup>37</sup>47 C.F.R. § 80.357.

<sup>38</sup>Globe Wireless Petition.

<sup>39</sup>GMDSS Letter. We will not address all of the specific provisions noted by the Task Force for three major reasons. First, the Task Force's review was based on the 1997 version of Part 80, and some of the recommended rules have subsequently been modified or deleted. (For example, Sections 80.19, 80.29, and 80.51 of the Commission's Rules, 47 C.F.R. §§ 80.19, 80.29, 80.51, specified in the Task Force letter, were deleted in the Matter of Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, WT Docket No. 98-20, *Memorandum Opinion and Order on Reconsideration*, 14 FCC Rcd 11476 (1999)). Second, provisions relating to public coast stations will not be treated here except as to the Global Wireless Petition and the MariTEL Petition, but will be the subject of another action in an open proceeding regarding public coast stations – namely, Amendment of the Commission's Rules Concerning Maritime Communications, PR Docket No. 92-257, *Third Report and Order and Memorandum Opinion and Order*, 13 FCC Rcd 19853 (*Third Report & Order*) (1998). Third, regulations pertaining to the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1972 (*Great Lakes Agreement*), because they are subject to an international agreement with Canada that may require renegotiation pursuant to actions taken in this proceeding.

<sup>40</sup>Some of these decisions include *SOLAS* 6.4-6 (passenger ships distress panel and position information), 7.5 (passenger ship emergency aeronautical radio), 16.2 (passenger ship personnel), and MSC69/22/Add.1 Annex 2 Regulations 1, 2, 13, 15 and 18 (application, GMDSS identities, reserve power for navigation receiver, EPIRB testing, and position updating). See Memorandum to Executive Secretary, IRAC, from J. Hersey, Jr., USCG/DOT IRAC Representative (dated Jan. 10, 2000).

other decisions of the recent ITU WRC97 affect Part 80 generally.<sup>41</sup> We seek comments to assist us in formulating the rules that will guide the industry in making maritime communications widely available and efficient, while ensuring the safety of life and property at sea.<sup>42</sup>

**a. Global Maritime Distress and Safety System (GMDSS) [Subpart W]**

15. *Background.* The IMO and ITU recommendations and standards have been modified extensively since our GMDSS rules were adopted in 1992. These modifications clarify existing requirements and procedures and address new requirements.<sup>43</sup> It is now necessary to implement these modifications. In addition, we recognize that there are compliance deadlines within our GMDSS rules that have passed and are no longer relevant.<sup>44</sup> For example, on November 23, 1995, the IMO added new requirements to each element of GMDSS capable of sending a distress alert to require a dedicated means of activation, two independent actions to initiate a distress alert, protection from accidental activation, and a means to give status of an alert transmission so that it could be interrupted or initiated at any time.<sup>45</sup> These changes were directed at reducing the number and impact of false alerts on Search and Rescue Authorities whose personnel were required to determine if the alert was real or false.

16. *Discussion.* We propose to incorporate the current IMO and ITU Standards, Recommendations, and Regulations into our Rules, to clarify our Rules where warranted, and to revise the Rules as appropriate to remove any unnecessary or duplicative regulations. We seek comment on the proposed revisions set out in the Appendix hereto, and any other related revisions that are needed. For example, Section 80.1111(d) of our Rules provides that a station receiving a DSC distress alert must cease any transmission that might interfere with distress traffic, and "continue watch until the call has been acknowledged."<sup>46</sup> It is our understanding that U.S. Coast Guard Search and Rescue experience has shown that too many ships were relaying distress calls without listening to see if a coast station had

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<sup>41</sup>These changes include: S32.5B (inclusion of position information in distress alerts), S32.10A (false distress alerts), APS18 (e) (implementing of VHF 12.5 kHz narrowband channel) and APS18 (n) (implementing new channels 75 and 76). See Memorandum to Executive Secretary, IRAC, from J. Hersey, Jr., USCG/DOT IRAC Representative (dated Jan. 10, 2000).

<sup>42</sup>In this proceeding, we have not addressed regulations pertaining to public coast stations, because they are the subject of the ongoing proceeding in WT Docket No. 92-257, or regulations pertaining to the *Great Lakes Agreement* because they are subject to an international agreement.

<sup>43</sup>For example, 47 C.F.R. § 80.1101(c) requires that all equipment conform to appropriate performance standards incorporated by reference. For 406 MHz EPIRBs that includes two IMO Resolutions, the latest of which was adopted in 1989. 47 C.F.R. § 80.1101(c)(5). However, IMO Resolution A.812(19), "Performance Standards for Float-free Satellite Emergency Position-indicating Radio Beacons Operating Through the Geostationary Inmarsat Satellite System on 1.6 GHz," adopted 23 November 1995, requires new performance standards for EPIRBs installed on or after November 23, 1996.

<sup>44</sup>See 47 C.F.R. § 80.1065(b)(4).

<sup>45</sup>See e.g. IMO Resolution A.804(19), "Performance Standards for Shipborne MF Radio Installations Capable of Voice Communication and Digital Selective Calling," adopted 23 November 1995.

<sup>46</sup>47 C.F.R. § 80.1111(d).

answered the call. In any event, the ITU changed this procedure, with the agreement of the United States, to require that a ship receiving a DSC distress call first monitor the associated distress voice traffic channel<sup>47</sup> for five minutes.<sup>48</sup> Additionally, the ship must monitor the DSC distress and safety channel so that the ship can hear the transmission of any DSC acknowledgements.<sup>49</sup> The ship can acknowledge the alert to the ship or to the rescue authority by using voice or narrowband direct printing as appropriate on this channel. Pursuant to these changes to the international rules, we propose modifying Section 80.1111(d) of our Rules accordingly. We also propose analogous modifications to Sections 80.1113(d) and 80.1117(a) of our Rules.<sup>50</sup>

17. We further propose to amend Section 80.1071 of our Rules<sup>51</sup> in order to add a general exemption from certain GMDSS requirements for all ships that sail continuously within VHF radiotelephone coverage (approximately 20 miles from shore). We propose that this exemption would expire one year after the U.S. Coast Guard establishes appropriate Sea Area A1 coast stations. As indicated above, the shore-based VHF and MF DSC equipment needed to support Sea Areas A1 and A2 in the United States is not yet fully operational.<sup>52</sup> We seek comment on both our proposal for a general exemption and what the qualification requirements should be for this exemption. Finally, we propose that Sections 80.1123(c) and (d) of our Rules, which address watch keeping requirements, be moved to Subpart G (Safety Watch Requirements and Procedures) and updated.<sup>53</sup> We seek comment on these proposals and any other Part 80 rule that may need revision.

#### **b. Compulsory Radiotelegraph Installations for Vessels 1600 Gross Tons [Subpart Q]**

18. *Background.* Section 351 of the Communications Act requires the installation of a radio telegraphy Morse Code station on cargo ships of 1600 gross tons or more, and all passenger ships irrespective of size.<sup>54</sup> The GMDSS replaces this previous safety system based on radiotelegraphy. In the *GMDSS Order*, the Commission noted that the *SOLAS Convention* permitted ships to voluntarily comply with the GMDSS in lieu of the current manual Morse Code system as early as February 1, 1992.<sup>55</sup> The

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<sup>47</sup>When a distress call is received on a DSC distress channel, any acknowledgement or reply is transmitted through the appropriate associated voice or data channel assigned to it. *See* 47 C.F.R. § 80.1077.

<sup>48</sup>*See* ITU Recommendation ITU-R M.541-8, "Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service," 1997.

<sup>49</sup>There are two sets of distress traffic frequencies in the MF and VHF bands. One frequency is for radiotelephone and the other frequency is for Narrow Band-Direct Printing (NB-DP). Ships initiating a distress alert can indicate their preferred choice of voice or NB-DP in the initial distress call.

<sup>50</sup>47 C.F.R. §§ 80.1113(d), 80.1117(a).

<sup>51</sup>47 C.F.R. § 80.1071.

<sup>52</sup>*See* Fishing Industry Task Force Letter at 3.

<sup>53</sup>*See infra* paras. 23-24.

<sup>54</sup>47 U.S.C. § 351(a)(1)(A).

<sup>55</sup>*GMDSS Order*, 7 FCC Rcd at 954 ¶ 11.

Commission agreed with the SOLAS schedule for U.S. ships, but stated that it could not eliminate the current manual radiotelegraphy system and radio officers until changes to the Communications Act were adopted.<sup>56</sup> In 1996, Congress enacted Section 365 of the Communications Act, which provides that a U.S. ship operating in accordance with the GMDSS provision of the *SOLAS Convention* is not required to install a radio telegraphy Morse Code station operated by one or more radio officers or operators.<sup>57</sup> Section 365 of the Communications Act also states: "This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition."<sup>58</sup>

19. In this regard, all compulsory vessels must either comply with GMDSS<sup>59</sup> or possess an exemption from specific requirements thereof as of February 1, 1999.<sup>60</sup> Ships installing new equipment must be inspected to ensure that the equipment complies with our Rules and is operating properly. In addition, each compulsory ship must display either an annual radio safety inspection certificate indicating that the ship has all the equipment required by GMDSS or a current FCC-issued exemption which must be posted at the ship's communication station. Previously, the Commission concluded that Congress did not intend for the Commission or the U.S. Coast Guard to revise current vessel certification or inspection procedures, particularly for GMDSS vessels.<sup>61</sup> Thus, the Commission determined that the Commission or its designee would continue to inspect each GMDSS-equipped vessel to ensure that the radio equipment on board complies with the GMDSS and is in good working condition.<sup>62</sup> In 1996, the U.S. Coast Guard indicated that it may elect to rely on the Commission-issued (or designee-issued) certificate of compliance in fulfilling the U.S. Coast Guard's responsibilities under Section 365 of the Communications Act.<sup>63</sup>

20. *Discussion.* The GMDSS Task Force recommends that we eliminate, or convert to voluntary compliance, the regulations governing compulsory radiotelegraph installations for vessels 1600 gross tons, and eliminate all Part 13 and Part 80 radiotelegraphy and radio officer regulations.<sup>64</sup> Because

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

<sup>57</sup>See 47 U.S.C. § 363 (added by Pub. L. 104-104, Title II, § 206, 110 Stat. 114 (1996)).

<sup>58</sup>47 U.S.C. § 363.

<sup>59</sup>See 47 C.F.R. § 80.1065.

<sup>60</sup>See 47 C.F.R. § 80.1071.

<sup>61</sup>Amendment of the Commission's Rules to Conform the Maritime Service Rules to the Provisions of the Telecommunications Act of 1996, *Order*, 11 FCC Rcd 17069, 17072 ¶ 7 (1996).

<sup>62</sup>*Id.*

<sup>63</sup>See Letter from Captain D. A. Potter, Director of Command, Control, Communications, and Computers, U.S. Coast Guard to Robert H. McNamara, Chief, Private Wireless Division (Mar. 13, 1996).

<sup>64</sup>GMDSS Letter at 2, 4, 6. It also recommends that we retain the radar requirements in 47 C.F.R. § 80.825, if appropriate, but correct the address of the RTCM. GMDSS Letter at 6.

Section 365 of the Communications Act prohibits requiring a ship to install a radio telegraphy station if it is operating in accordance with the GMDSS, and, because all compulsory vessels must demonstrate compliance with the GMDSS, we propose to eliminate all the requirements in Subpart Q of Part 80 of our Rules, with the exception of Section 80.825.<sup>65</sup> Section 80.825 of our Rules provides the requirements and specifications for installing radar installations on ships that require the installation of radar by the Safety Convention or the U.S. Coast Guard. We seek comment on this proposal and whether there are any other requirements for radiotelegraph installations for ships of 1600 gross tons or more that are set forth in Subpart Q<sup>66</sup> or any requirements relating to radiotelegraphy that are set forth in other subparts of Part 80 that we should retain. In addition, we seek comment on a proposal suggested by the GMDSS Task Force that we convert the requirements for radiotelegraphy that are set forth in Subpart Q to voluntary compliance.<sup>67</sup>

### c. General Technical Standards [Subpart E]

21. *Background.* Subpart E of Part 80 of our Rules provides the general technical requirements for the use of maritime frequencies and equipment.<sup>68</sup> These requirements include standards for equipment authorization, frequency tolerance, modulation, emission, power, and bandwidth.

22. *Discussion.* The GMDSS Task Force makes a general suggestion that Subpart E needs to be updated.<sup>69</sup> It recommends incorporating the IEC Test Standards by reference, and deleting the reference to Marisat.<sup>70</sup> The Task Force, however, provides no information relating to the specific rules it believes requires revision nor which of the IEC Test Standards it recommends incorporating by reference into our Rules. We seek comment on whether any specific standards require modification and what the modification should be. In addition, we seek comment on whether IEC Test Standards should be incorporated by reference into our Rules, and if so, which specific standards should be included. Finally, we seek comment on how to simplify the means for keeping these general technical standards updated in the future.

### d. Safety Watch Requirements and Procedures [Subpart G]

23. *Background.* Prior to the GMDSS, each ship which was equipped with a radio telegraphy Morse Code station was required to maintain a continuous, live watch over the ship's communications equipment to ensure that someone was available to receive and transcribe safety communications such as

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<sup>65</sup>47 C.F.R. § 80.825

<sup>66</sup>See 47 C.F.R. §§ 80.801-836.

<sup>67</sup>GMDSS Letter at 6.

<sup>68</sup>47 C.F.R. § 80.201.

<sup>69</sup>GMDSS Letter at 3.

<sup>70</sup>*Id.*

distress, urgency, or safety messages.<sup>71</sup> Existing Subpart G sets forth these requirements for these watches and the procedures for handling distress, urgency and safety transmissions.<sup>72</sup>

24. *Discussion.* The GMDSS Task Force recommends that we update our Rules relating to distress, urgency and safety procedures pertaining to the use of 500 and 8364 kHz as distress and safety frequencies.<sup>73</sup> Additionally, the GMDSS Task Force recommends that we delete references to alarm signals.<sup>74</sup> Most of the specific provisions mentioned apply to our radiotelegraph rules and would therefore be included in our proposal to eliminate the radiotelegraphy rules.<sup>75</sup> However, the GMDSS Task Force suggests that these rules should be consistent with current ITU Regulations.<sup>76</sup> We agree that our rules should conform to the international standards.<sup>77</sup> With that in mind, we note that the requirement in Section 80.1123(c) of our Rules, which states that “every ship while at sea must maintain, when practicable, a continuous listening watch on VHF Channel 16” (the VHF distress and safety channel), expired on February 1, 1999.<sup>78</sup> However, the *SOLAS Convention* extended this requirement until February 1, 2005, in order to increase the safety of compulsory and voluntary vessels alike.<sup>79</sup> Therefore, we propose to retain this watch requirement with an expiration date of February 1, 2005.<sup>80</sup> Similarly, Sections 80.305(a)(2), (b)(1), and 80.1123(d) of our Rules provide that every compulsory ship at sea must maintain a continuous watch on 2182 kHz (the MF distress and safety frequency).<sup>81</sup> The ITU recommends that vessels voluntarily maintain such a watch when a significant number of non-compulsory vessels is in the vicinity.<sup>82</sup> We seek comment as to the practicality of a voluntary watch, what is considered a significant number, and whether a voluntary watch on 2182 kHz will provide meaningful benefits to ships (both compulsory and voluntary) at sea. We also propose that voluntary vessels that are equipped with DSC must maintain a watch on VHF DSC channel 70 (156.525 MHz) whenever the vessel is underway. We seek comment on this proposal. We also seek comment on the

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<sup>71</sup>See 47 U.S.C. § 354(b); 47 C.F.R. § 80.305. A safety signal precedes the transmission or reception of distress, alarm, urgency or safety signals. 47 C.F.R. § 80.5.

<sup>72</sup>47 C.F.R. §§ 80.301-333.

<sup>73</sup>GMDSS Letter at 4.

<sup>74</sup>*Id.*

<sup>75</sup>See *supra* paras. 18-20.

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

<sup>77</sup>S31.17.8 and S31.20.9 of the ITU Radio Regulations.

<sup>78</sup>47 C.F.R. § 80.1123(c); see also *Solas Convention*, Chapter IV, Regulation 12, subparagraph 3.

<sup>79</sup>See Report of the Maritime Safety Committee on its Sixty-ninth Session, Resolution MSC.77(69), Annex 21 (May 29, 1998).

<sup>80</sup>See Appendix, *infra* (proposed amendment to 47 C.F.R. § 80.148); ¶ 15.

<sup>81</sup>47 C.F.R. §§ 80.305(a)(2), (b)(1), and 80.1123(d).

<sup>82</sup>S31.17 and APS13 § 21(3) of the ITU Radio Regulations.

need for and the nature of any regulations to ensure adequate watchkeeping facilities and procedures until adequate shore communications are established for GMDSS.

**e. Frequencies [Subpart H]**

25. *Background.* Sections 80.351 through 80.363 of our Rules relates to the general uses of radiotelegraphy; the distress, urgency, safety, call and reply Morse Code frequencies; Morse Code working frequencies; frequencies for DSC; frequencies for NB-DP; and frequencies for facsimile.<sup>83</sup> These Rules provide the requirements and specific procedures to ensure that all ships are able to receive emergency messages and process them uniformly. In its petition, Globe Wireless notes that currently Section 80.357(a)(3) of our Rules restricts 744 frequencies in the HF band assignable to maritime stations to Morse Code transmissions.<sup>84</sup> Globe Wireless further asserts that this restriction concerning Morse Code transmissions has resulted in inefficient use of the spectrum.<sup>85</sup> In accordance with revised ITU Radio Regulations, Globe Wireless proposes allowing radio-teletypewriter, data, telemetry, and telecommand transmissions on frequencies currently reserved for Morse Code transmissions.<sup>86</sup> Globe Wireless notes that the WRC-97 authorized the use of digital technology in certain MF and HF radiotelephone and radiotelegraph bands, except for distress and safety frequencies.<sup>87</sup> Specifically, WRC-97 authorized the use of classes J2B and J2D emissions on a non-interference basis to A1A Morse Code operations.<sup>88</sup> Globe Wireless asserts that amending our Rules to conform to ITU Radio Regulation S52.54.1 would promote both international comity and promote the use of higher-speed communications technologies in scarce HF spectrum.<sup>89</sup>

26. *Discussion.* We tentatively conclude that removing the Morse Code transmission restriction, as requested by Globe Wireless, would result in the efficient use of these frequencies. Consequently, we propose to amend our rules to permit J2B and J2D emission<sup>90</sup> wherever A1A or F1B emission<sup>91</sup> is

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<sup>83</sup> 47 C.F.R. §§ 80.351-363.

<sup>84</sup> Globe Wireless Petition at 2.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> See *Final Acts of the World Radiocommunication Conference*, Geneva, 1997 (amending ITU Radio Regulations Art. S52.54.1).

<sup>88</sup> Footnote 1 to S52.54 of the ITU Radio Regulations

<sup>89</sup> *Id.*

<sup>90</sup> Emissions are classified and symbolized by alphanumeric characters denoting (a) the type of modulation; (b) the nature of the signal modulating the main carrier; and (c) the type of information to be transmitted. See 47 C.F.R. § 2.201. Thus, a "J2B" emission is telegraphy for automatic transmission and "J2D" is data transmission, telemetry, telecommand. *Id.*

<sup>91</sup> The type of information transmitted by "A1A" or "F1B" emissions are Aural reception telegraphy and automatic reception telegraphy. *Id.*

permitted on high seas frequencies, and to permit J2D emission wherever J3E emission<sup>92</sup> is permitted on high seas frequencies. We believe this proposal will increase the operational flexibility of MF and HF service providers and facilitate their ability to offer additional services. Accordingly, we seek comment on our proposal and tentative conclusion. In addition to the Globe Wireless request, the GMDSS Task Force recommends that we update the frequency tables in Subpart H in accordance with revised ITU Regulations.<sup>93</sup> We seek comment on the specific ITU Regulations that we should implement. We also propose that Section 80.353 of our Rules, regarding the general uses of radiotelegraphy, be deleted. The GMDSS Task Force further recommends that we update our Rules by deleting 500 and 8364 kHz as distress and safety frequencies, and eliminating the Morse Code radiotelegraph frequencies.<sup>94</sup> We invite comment on these proposals. Finally, we seek comment on whether there should be any other revisions to the rules set forth in Subpart H.

#### **f. Compulsory Radiotelephone Installations for Vessels 300 Gross Tons [Subpart R]**

27. *Background.* Subpart R provides the radiotelephone requirements for cargo ships of 300 gross tons and upward, but less than 1600 gross tons. As of February 1, 1999, all cargo vessels over 300 gross tons were required to comply with Subpart W (GMDSS), which makes a separate Subpart R covering these same vessels unnecessarily duplicative.

28. *Discussion.* In light of the full implementation of the GMDSS, we tentatively conclude that our Rules contained in Subpart R<sup>95</sup> are redundant with our Rules in Subpart W (GMDSS). We propose to eliminate all requirements in Subpart R, with the exception of Section 80.879 of our Rules.<sup>96</sup> Pursuant to Section 80.879 of our Rules,<sup>97</sup> ship radar installations on ships of 500 gross tons and upwards, constructed after September 1, 1984, must comply with the requirements and specifications contained in Section 80.825 of our Rules.<sup>98</sup> We also invite comment on whether other rules in Subpart R should be retained for general or individual exemption purposes. In our *Fishing Vessel Order*, we stated that the waiver did not relieve the fishing vessels from compliance with Subparts Q (radiotelegraph) and R (radiotelephone) of Part 80 of the Commission's Rules.<sup>99</sup> Consequently, we seek comment regarding the continued need to specify radiotelephone requirements in Subpart R in conjunction with GMDSS requirements in Subpart W, or whether Subpart R should be deleted in its entirety or in part, and if so, when.

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<sup>92</sup>The type of information transmitted by J3E emission is telephony (including sound broadcasting). *Id.*

<sup>93</sup>GMDSS Letter at 4.

<sup>94</sup>*Id.* at 5.

<sup>95</sup>47 C.F.R. Part 80, Subpart R.

<sup>96</sup>47 C.F.R. § 80.879.

<sup>97</sup>47 C.F.R. § 80.879.

<sup>98</sup>47 C.F.R. § 80.825 provides the equipment specifications, standards, and general requirements for shipboard radar installations.

<sup>99</sup>*Fishing Vessel Order*, 14 FCC Rcd at 534.

**g. Emergency Position Indicating Radiobeacons (EPIRBs) [Subpart V]**

29. *Background.* Subpart V of Part 80 of our Rules provides the technical and performance requirements for Classes A, B, C, and S, and Categories 1, 2, and 3 EPIRB stations.<sup>100</sup> The requirements include standards for equipment authorization, modulation, power, and frequency stability.

30. *Discussion.* The U.S. Coast Guard has recommended that we remove the certification for Class A, B, and S EPIRBs, which operate at 121.5/243 MHz.<sup>101</sup> We tentatively agree with this recommendation. Specifically, we propose that: (1) certification of new Class A, B, and S EPIRBs cease immediately; (2) sales and manufacture of these devices cease as of February 1, 2003; and (3) operation of these devices cease as of December 31, 2006. We also propose to eliminate all Commission Rules that pertain to the obsolete Class C EPIRB. According to the U.S. Coast Guard, the use of 121.5/243 MHz EPIRBs has led to 350,000 false alerts over the past three years.<sup>102</sup> Lifesaving efforts are often ineffective when 121.5/243 MHz EPIRBs transmit because there is no available registration information to aid detection.<sup>103</sup> Adding to this ineffectiveness is the average alerting time of 121.5/243 MHz EPIRBs, which, by 2006, is expected to exceed the unacceptable level of ninety minutes.<sup>104</sup> On the other hand, 406 MHz EPIRBs are responsible for four times the number of lives saved as 121.5/243 MHz EPIRBs, while being responsible for only two percent of the total number of false alerts that are attributed to 121.5/243 MHz EPIRBs.<sup>105</sup> On this basis, COSPAS/SARSAT, the international program that operates the satellite processors for EPIRBs, recently announced that it will stop equipping new satellites with 121.5/243 MHz processors, and plans to establish a date after which any remaining active processors will

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<sup>100</sup>See 47 C.F.R. § 80.1051.

<sup>101</sup>Letter from Joseph D. Hersey, Jr., Chief, Spectrum Management Division, U.S. Coast Guard, to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, Dec. 22, 1999 (*U.S. Coast Guard Letter*).

<sup>102</sup>*Id.* at Enclosure: Discussion and Proposal for Phasing out 121.5/243 MHz EPIRBs.

<sup>103</sup>The 121.5 MHz signal can only be detected and relayed to search and rescue personnel when COSPAS/SARSAT satellite is in range of both the 121.5 MHz beacon and a rescue coordination center (RCC). See Amendment of the Marine Services Rules (Part 80) and Aviation Services Rules (Part 87) to Require Registration of 406 MHz Radiobeacons, *Notice of Proposed Rule Making*, 8 FCC Rcd 3591, 3591 ¶ 2 (1993). There are, therefore, "blind spots" where distress signals cannot be relayed to a RCC. *Id.* On the other hand, owners of 406 MHz EPIRBs must file registration information with the National Oceanic and Atmospheric Administration (NOAA). See 47 C.F.R. § 80.1061(f). Search and rescue operations are aided by this registration information and also by a signal that the 406 MHz EPIRB transmits. The signal contains an identification number that specifically identifies the beacon. See 47 C.F.R. § 80.1061(e); see also Amendment of the Marine Services Rules (Part 80) and Aviation Services Rules (Part 87) to Require Registration of 406 MHz Radiobeacons, *Report and Order*, 9 FCC Rcd 3146, 3146 ¶¶ 1-2 (1994).

<sup>104</sup>This figure is based upon the current predicted launch of COSPAS/SARSAT satellites equipped with 121.5 MHz processors. See *U.S. Coast Guard Letter* at Enclosure: Discussion and Proposal for Phasing out 121.5/243 MHz EPIRBs.

<sup>105</sup>*Id.*

be turned off.<sup>106</sup> We believe that the complete transition to 406 MHz EPIRBs should cause very little disruption.<sup>107</sup> Carriage of the 406 MHz EPIRB is already required aboard SOLAS-class merchant vessels<sup>108</sup> and U.S. commercial fishing vessels.<sup>109</sup> The 406 MHz EPIRB is also being used aboard recreational vessels at an increasing rate.<sup>110</sup> We seek comment on these points and our proposals regarding EPIRBs.

## 2. Fishing Vessels and the GMDSS

31. *Background.* Prior to the release of the *Fishing Vessel Order*, representatives of the fishing industry argued that the *SOLAS Convention* specifically exempted fishing vessels<sup>111</sup> from its GMDSS regulations.<sup>112</sup> They also argued that requiring fishing vessels to comply with the DSC communications requirements of the GMDSS rules would constitute an unnecessary financial burden,<sup>113</sup> because the requisite shore-based VHF and MF DSC equipment used to establish Sea Areas A1 and A2 are not in place in the United States.<sup>114</sup> Thus, they argued, to remain fully compliant with GMDSS rules, fishing vessels would be forced to carry the more expensive Sea Area A3 or A4 equipment.<sup>115</sup> The *SOLAS*

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<sup>106</sup>See Satellite Processing of 121.5 MHz Emergency Beacons to be Phased Out, National Oceanic and Atmospheric Administration (NOAA) 99-075, Nov. 10, 1999. The U.S. Coast Guard would like the active processors turned off no later than 2008. See *U. S. Coast Guard Letter* at Enclosure: Discussion and Proposal for Phasing out 121.5/243 MHz EPIRBs.

<sup>107</sup>With regard to radiobeacons operating on 406 MHz, we note that in response to a NOAA petition, the Commission has recently proposed to amend Part 95 of the Commission's Rules to authorize the use of 406 MHz personal locator beacons (PLBs). The 406 MHz PLBs will be used to satisfy the distress alerting needs of the general public. Amendment of Part 95 of the Commission's Rules to Authorize the Use of 406.025 MHz for Personal Locator Beacons (PLB), *Notice of Proposed Rule Making*, FCC 99-414 (rel. Jan. 18, 2000).

<sup>108</sup>See *SOLAS Convention*, Chapter IV, Part A, Regulation 1; *GMDSS Order*, 7 FCC Rcd at 960 ¶ 37.

<sup>109</sup>See 46 C.F.R. § 25.26-5.

<sup>110</sup>We find that 12,000 406 MHz EPIRBs were purchased by owners of recreational vessels. This is due, in large measure, to the steadily decreasing price of the 406 MHz EPIRB. See *U.S. Coast Guard Letter* at Enclosure: Discussion and Proposal for Phasing out 121.5/243 MHz EPIRBs.

<sup>111</sup>"Fishing vessels" are commercial vessels that catch and/or process fish and other marine life. *Fishing Vessel Order*, 14 FCC Rcd at 528 n.2.

<sup>112</sup>See Letter from Fishing Industry Task Force on GMDSS/DSC to William E. Kennard, Chairman, Federal Communications Commission, (September 1, 1998)(Fishing Industry Task Force Letter) at 5.

<sup>113</sup>*Id.* at 4

<sup>114</sup>See Letter from the Kodiak Vessel Owners' Association, Alaska Groundfish Data Bank, United Catcher Boats, Deep Sea Fisherman's Union, Aleutians East Borough, Alaska Longline Fish Association, Unisea, Inc., Tyson Seafood Group, Inc., NorQuest Seafoods, Inc., Petersburg Vessel Owners, Pacific Seafood Processing Association, United Fisherman's Marketing Association, Inc., Alaska Dragger's Association, North Pacific Longline Association, Fishing Vessel Owners' Association, Alaska Crab Coalition, At-Sea Processors Association, and Groundfish Forum to the Hon. Ted Stevens (April 21, 1998) (Kodiak Letter).

<sup>115</sup>*Id.*

*Convention* specifically exempts fishing vessels from the GMDSS regulations.<sup>116</sup> The Communications Act, however, defines a cargo ship as "any ship not a passenger ship."<sup>117</sup> Based on the Communications Act definition of "cargo ships,"<sup>118</sup> we traditionally have categorized fishing vessels of 300 gross tons or more as "cargo ships."<sup>119</sup> Nevertheless, in the *Fishing Vessel Order*, we granted a temporary, conditional waiver of some of the GMDSS regulations for fishing vessels of 300 gross tons or more, pending completion of a rule making proceeding addressing whether fishing vessels should be required to comply with our GMDSS rules.<sup>120</sup> By this *Notice*, we undertake a fuller examination of this matter.

32. *Discussion.* Based on the Communications Act, we affirm that fishing vessels of 300 gross tons or more are considered "cargo ships" and, therefore, subject to the GMDSS regulations.<sup>121</sup> Nevertheless, we propose to extend the temporary, conditional exemption from the GMDSS DSC communications equipment requirements until one year after the U.S. Coast Guard establishes adequate DSC coast facilities for Sea Areas A1 and A2. As indicated above, the shore-based VHF and MF DSC equipment needed to support Sea Areas A1 and A2 in the United States is not yet fully operational.<sup>122</sup> Thus, absent the temporary, conditional waiver that was granted in the *Fishing Vessel Order*, fishing vessels of 300 gross tons and over would have to carry the more expensive Sea Area A3 or A4 equipment to remain fully compliant with the GMDSS DSC communications equipment requirement. We agree with fishing industry representatives<sup>123</sup> that under current conditions, full compliance with the GMDSS rules would impose an unnecessary financial burden on fishing vessels. Although we are concerned that exempting fishing vessels of 300 gross tons or more from the carriage of DSC communications equipment might place these fishing vessels at a greater safety risk, it is our expectation that coast stations that operate in the 2 MHz band will continue to tune to the MF distress and safety frequency, 2182 kHz, for watchkeeping purposes until DSC facilities are established.<sup>124</sup> As discussed earlier, we

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<sup>116</sup>See *SOLAS Convention*, Chapter I, Regulation 3(a)(vi).

<sup>117</sup>47 U.S.C. § 153(39)(C).

<sup>118</sup>47 U.S.C. § 351.

<sup>119</sup>See Exemption from the Radiotelephone Requirements of Title III, Part II of the Communications Act of 1934, as Amended, for the U.S. Fishing Vessel "Santa Rosa," 357 Gross Tons, *Memorandum Opinion and Order*, 16 FCC 2d 720 (1969) ("Under the definitions of the Communications Act, a fishing vessel is a class of cargo vessel.").

<sup>120</sup>*Fishing Vessel Order*, 14 FCC Rcd at 534. The waiver did not relieve those fishing vessels from carrying a NAVTEX receiver, float-free satellite emergency position indicating radiobeacon (EPIRB), and survival craft radio equipment. *Id.* (NAVTEX is an automated system that distributes maritime navigation warnings, weather forecasts and warnings, search and rescue notices, and other safety and urgent information to mariners. *Id.* at 530 n.11). The waiver did not relieve the fishing vessels from their continued compliance with Subparts Q and R of Part 80 of the Commission's Rules. *Id.* at 534.

<sup>121</sup>See *supra* n.117.

<sup>122</sup>See Fishing Industry Task Force Letter at 3.

<sup>123</sup>See Kodiak Letter at 1.

<sup>124</sup>We expect that stations will continue to tune to 2182 kHz because under Section 80.369(a) of the Commission's Rules, 2182 kHz is routinely used for call and reply by ship stations on a primary basis and by public coast stations on a secondary basis. 47 C.F.R. § 80.369(a).

tentatively conclude that a coast station that keeps watch on VHF Channel 16 and 2182 kHz can effectively monitor fishing vessels if the fishing vessels sail solely within the radiotelephone coverage of coast stations. Also, we note that under our current rules, fishing vessels of 300 gross tons and more must carry a NAVTEX receiver, EPIRB, and survival craft equipment,<sup>125</sup> and must comply with our other applicable rules. We seek comment on this proposal, especially with respect to whether extending this exemption will place fishing vessels that are in distress at a greater safety risk.

33. We also propose that once adequate DSC coast facilities are in place, to require fishing vessels of 300 gross tons and over to comply with all of the GMDSS requirements appropriate to their area of operation. We are concerned that adopting a separate safety system for commercial fishing vessels would be expensive, difficult for these larger fishing vessels to administer, and likely to cause confusion during a distress incident. Moreover, we believe that the same level of safety requirements is necessary for the fishing industry as that for other maritime industries. We also are concerned that after other coast and ship stations discontinue their watchkeeping requirements on former distress and safety frequencies, VHF Channel 16 and 2182 kHz, large fishing vessels that lack DSC capability will have difficulty contacting other stations in the event of an emergency. We believe that for fishing vessels of 300 gross tons or more, the benefits of full GMDSS capability will be worth the cost of the DSC equipment required for Sea Areas A1 and A2. Given the purpose of this proposal – increased safety for fishing vessels – it is especially important to avoid such possible effects by adopting a more effective solution, which would be uniform maritime rules. We seek comment on these proposals.

### 3. Commercial Operator Licenses

#### a. Restricted GMDSS Radio Operator's License

34. *Background.* We issue one type of commercial radio operator license for GMDSS operators, the GMDSS Radio Operator's License, which requires familiarity with all of the GMDSS equipment required for vessels sailing within all four sea areas.<sup>126</sup> We also require each compulsory vessel to carry two crew members holding such a license.<sup>127</sup> In addition, because Sea Areas A1 and A2 are not declared for United States territorial waters, our GMDSS rules require that United States compulsory ships carry the full array of GMDSS communications equipment described for Sea Area A3 or A4 (*i.e.*, VHF, MF, DSC, and either satellite or HF DSC with narrow-band direct printing equipment).<sup>128</sup> These requirements, which were established for extensive international ocean voyages, appear onerous for ships sailing within Sea Areas A1 and A2, which are closer to U.S. shores and have radiotelephone coverage.

35. The ITU Regulations, however, provide for two types of radio operators certificates: a General Operator's Certificate (equivalent to the GMDSS Radio Operator's License), and a Restricted Operator's Certificate for compulsory ships that operate exclusively within Sea Area A1. A Restricted Operator's Certificate requires familiarity with all of the GMDSS equipment required for vessels sailing

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<sup>125</sup>47 C.F.R. § 80.1065.

<sup>126</sup>47 C.F.R. § 13.7(b).

<sup>127</sup>47 C.F.R. § 80.1073(a).

<sup>128</sup>47 C.F.R. § 80.1091.

within Sea Area A1, including VHF DSC procedures, and basic radio law and operating practice with which every maritime radio operator should be familiar.

36. *Discussion.* We tentatively conclude that we should permit compulsory vessels which are required to carry only the GMDSS equipment described for Sea Area A1,<sup>129</sup> to have GMDSS operators hold only a Restricted GMDSS Radio Operator's License. We believe that a FCC-created Restricted GMDSS Radio Operator's License, equivalent to an ITU Restricted Operator's Certificate, even prior to the establishment of Sea Area A1 in the United States, is in the public interest for several reasons. First, some compulsory ships (*i.e.*, fishing vessels of 300 gross tons or more) sailing within twenty nautical miles of shore have been granted Commission exemptions to the additional GMDSS requirements which would be required for ships sailing on unlimited voyages within Sea Areas A3 and A4. Operators on such compulsory ships do not need to be familiar with the additional equipment required for Sea Areas A3 and A4, and therefore should be permitted to be qualified commensurate to the equipment aboard the ship. As explained above, the GMDSS equipment rules for Sea Areas A3 and A4 were established for extensive international ocean voyages and are unnecessary, onerous and costly for ships operating in Sea Areas A1 and A2. Second, the training courses for this license should be shorter than the courses for a GMDSS Radio Operator's License and thus, will be more affordable and easier to schedule for personnel on compulsory ships sailing only in Sea Area A1 and voluntarily fitted ships. Accordingly, we seek comment regarding whether to establish a Restricted GMDSS Radio Operator's License. We propose to amend Section 13.201 of our Rules<sup>130</sup> to require applicants for this license to pass an examination on elements 1 and 7R. Element 1 would consist of questions pertaining to basic radio law, treaties, regulations, and operating procedures and practices. Element 7R would consist of all GMDSS questions in Element 7 pertaining to the use of equipment required to be fitted on ships sailing solely within Sea Area A1, or, if appropriate, Sea Area A2. Element 7 is the GMDSS element for all systems including those required for Sea Area A1, A2, A3, and A4 ships. While we do not set forth any specific parameters for Element 7R at this time, we seek comment on specifics for this proposal or other methods of testing GMDSS Restricted Operator's License applicants. We also seek comment on whether we should, in accordance with current ITU guidance, allow ships that sail solely within Sea Area A2 to have operators qualified to a similar restricted GMDSS certificate for operation of Sea Area A2 equipment.

**b. Credit for Proof of Passing U.S. Coast Guard Training**

37. *Background.* Commercial Operator License Examination (COLE) Managers administer the examinations to ship personnel who apply for a FCC issued GMDSS Radio Operator's License. To qualify for a GMDSS Radio Operator's License, the applicant must demonstrate proficiency in basic radio law and operating practice (Element 1), and GMDSS radio operating practice (Element 7), through successful completion of a written examination.<sup>131</sup> If such proficiency is demonstrated, then the COLE Managers will issue a Proof of Passing Certificate (PPC) to the applicant. The Commission then issues a GMDSS Radio Operator's License to the applicant upon receipt of that applicant's PPC.

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<sup>129</sup> 47 C.F.R. § 80.1087.

<sup>130</sup> 47 C.F.R. § 13.201.

<sup>131</sup> 47 C.F.R. § 13.203(a).

38. Starting on February 1, 2002, all masters and mates must hold the FCC GMDSS Radio Operator's License and must also qualify for a U.S. Coast Guard<sup>132</sup> GMDSS endorsement.<sup>133</sup> A U.S. Coast Guard endorsement requires the successful completion of a 70-hour training program, including both theoretical examinations and practical demonstration of the candidate's ability to operate GMDSS equipment.<sup>134</sup>

39. *Discussion.* The GMDSS Task Force states that the examination for a FCC GMDSS Radio Operator's License and the U.S. Coast Guard's theoretical examination are based on the same material and similar questions. We believe that this duplication of effort places a burden on all parties. Consequently, we propose to authorize the U.S. Coast Guard or its designee to issue a PPC to operators and maintainers of radio equipment who possess the relevant certificate of competency from a U.S. Coast Guard-approved training course. Upon receipt of the PPC, the Commission would issue a GMDSS Radio Operator's License (or, if it is created, Restricted GMDSS Radio Operator's License) to applicants with such certificates of competency. This proposal should reduce burdens on the applicant and eliminate redundant requirements.

### III. MEMORANDUM OPINION AND ORDER

40. *Background.* On February 4, 1998, we granted the FCBA petition<sup>135</sup> and partially granted the PCIA petition<sup>136</sup> from the application of the prior notification and approval requirements of Section 310(d) of the Communications Act<sup>137</sup> to telecommunications carriers licensed by the Bureau for *pro forma* assignments of license and transfers of control.<sup>138</sup> Specifically, we granted the FCBA request to forbear from the requirements of Section 310(d) of the Communications Act for all non-substantial transactions involving telecommunications carriers licensed by the Bureau.

41. Section 310(d) of the Communications Act forbids the assignment of a radio license or transfer of control of a radio licensee corporation without obtaining prior Commission consent.<sup>139</sup> In our *Forbearance MO&O*, we held that there was sufficient justification in the record to forbear from

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<sup>132</sup>The U.S. Coast Guard is the administrator for implementation of the revised IMO Treaty on the Standards of Training, Certification, and Watchkeeping.

<sup>133</sup>46 C.F.R. § 15.103(d).

<sup>134</sup>Letter from GMDSS Task Force to Dan Phythyon, Chief, Wireless Telecommunications Bureau at 1 (Nov. 5, 1998).

<sup>135</sup>Petition for Forbearance filed by Federal Communications Bar Association Wireless Telecommunications Practice Committee, Feb. 4, 1997 (FCBA Petition).

<sup>136</sup>Petition for Forbearance filed by the Broadband Personal Communications Services Alliance of the Personal Communications Industry Association, May 22, 1997 (PCIA Petition).

<sup>137</sup>47 U.S.C. § 310(d).

<sup>138</sup>*Forbearance MO&O*, 13 FCC Rcd at 6313 ¶¶ 39-40.

<sup>139</sup>47 U.S.C. § 310(d).

enforcing the requirements of Section 310(d) of the Communications Act as they apply to all telecommunications carriers licensed by the Bureau.<sup>140</sup> Citing the Communications Act, we determined that a telecommunications carrier was "any provider of telecommunications services," and a "telecommunications service" was the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public.<sup>141</sup> Because no commenter expressly opposed the FCBA's proposal and we found no reason to distinguish among different categories of telecommunications carriers, we intended to apply the forbearance uniformly to all telecommunications carriers licensed by the Bureau.<sup>142</sup>

42. However, as noted by MariTEL,<sup>143</sup> when we listed the categories of telecommunications carriers who were licensed by the Bureau, we did not include telecommunications carriers licensed and regulated under Part 80 of our Rules.<sup>144</sup> MariTEL, a public coast service station provider, asserts that it is a telecommunications carrier because it provides telecommunications for a fee directly to the general public.<sup>145</sup> Consequently, MariTEL requests that we reconsider and revise our Rules to include Part 80 licensees whom qualify as telecommunications carriers.<sup>146</sup>

43. *Discussion.* Pursuant to Section 1.924(a)(2) of our Rules, licenses in the Maritime (ship) Radio Services may not be assigned.<sup>147</sup> When a ship is sold, the new owner must apply for a new license.<sup>148</sup> When the new license is issued, the former license must be surrendered for cancellation.<sup>149</sup> For the foregoing reasons, Maritime (ship) Radio Services licenses are not subject to Section 310(d) of the Communications Act. On the other hand, Public Coast Stations, which are located on land, may be assigned pursuant to the provisions of Section 1.924(a)(1) of our Rules.<sup>150</sup> We agree with MariTEL that the *Forbearance MO&O* should be applied to such telecommunications carriers licensed and regulated under Part 80 of our Rules because these carriers provide telecommunications for a fee directly to the

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<sup>140</sup>*Forbearance MO&O*, 13 FCC Rcd at 6306 ¶ 23.

<sup>141</sup>*Forbearance MO&O*, 13 FCC Rcd at 6305-6 ¶ 22; *see also* 47 U.S.C. § 153(46).

<sup>142</sup>*Forbearance MO&O*, 13 FCC Rcd at 6306 ¶ 23.

<sup>143</sup>WJG MariTEL Corporation, Petition for Reconsideration, February 23, 1998 (MariTEL Petition).

<sup>144</sup>We listed telecommunications carriers licensed under Part 21 (domestic public fixed radio services), Part 22 (public mobile radio services), Part 24 (personal communications services), Part 27 (wireless communications services), Part 90 (private land mobile radio services), and Part 101 (fixed microwave services) of our Rules. *See Forbearance MO&O*, 13 FCC Rcd at 6306 ¶ 24.

<sup>145</sup>MariTEL Petition at 2.

<sup>146</sup>*Id.* at 2-3.

<sup>147</sup>47 C.F.R. § 1.924(a)(2).

<sup>148</sup>*Id.*

<sup>149</sup>*Id.*

<sup>150</sup>*See* 47 C.F.R. § 1.924(a)(1).

public. Accordingly, we grant MariTEL's Petition and will extend forbearance from the requirements of Section 310(d) of the Communications Act for pro forma applications to telecommunications carriers licensed and regulated under Part 80 of our Rules.

#### IV. CONCLUSION

44. In view of the foregoing, we propose to: (1) amend our rules to incorporate the current international standards and recommendations for GMDSS; (2) amend our rules as requested by Globe Wireless, to allow digital transmissions on high seas frequencies currently allocated for Morse Code radiotelegraphy; (3) consider the extent to which our GMDSS rules should apply to the commercial fishing industry; and (4) create a new Restricted GMDSS Radio Operator class of commercial operator license, and (5) accept a proof of passing certificate from the USCG training program as evidence that an applicant has met his or her obligations for any of the GMDSS operator license we issue. We invite comment on these matters and our proposed rules that are appended hereto. We also seek comment on any other related modifications to Parts 13 and 80 that would be in the public interest. Finally, we grant MariTEL's Petition for Reconsideration and extend the determination in our *Forbearance MO&O* to include Public Coast station licensees regulated under Part 80 of our Rules.

#### V. PROCEDURAL MATTERS

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

45. This is a permit-but-disclose notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in our Rules.<sup>151</sup>

##### B. Regulatory Flexibility Act

46. The Regulatory Flexibility Act (RFA)<sup>152</sup> requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."<sup>153</sup> The purpose of this *Notice* is to streamline and clarify our rules under Parts 13 and 80 governing maritime communications. The proposed rule changes do not impose any additional compliance burden on small entities regulated by the Commission. Rather, we anticipate that these recommended changes will reduce regulatory and procedural burdens on small entities. Accordingly, we certify, pursuant to Section 605(b) of the RFA, that the rules proposed in this *Notice* will not, if promulgated, have a significant economic impact upon a substantial number of small entities, as that term is defined by the RFA. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *Notice*, including this certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the RFA. We shall also publish a copy of this certification in the Federal Register. We shall analyze the information submitted during the comment period and, if we determine at the time we

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<sup>151</sup>See generally 47 C.F.R. §§ 1.1202, 1.1203, 1.1206(a).

<sup>152</sup>5 U.S.C. § 603.

<sup>153</sup>5 U.S.C. § 605(b).

issue a final rule that such final rule changes will have a significant economic impact on a significant number of small entities, we shall prepare a Final Regulatory Flexibility Analysis.

### C. Comment Dates

47. Pursuant to Sections 1.415 and 1.419 of our Rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before [90 days after Federal Register publication] and reply comments on or before [120 days after Federal Register publication]. Comments may be filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 13 FCC Rcd 11322 (1998).

48. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, then commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

49. 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, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th St., S.W., Room TW-A325, Washington, D. C. 20554.

50. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Keith Fickner, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Room 4-C423, 445 12th St., S.W., Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Microsoft Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case, WT Docket No. 00-48, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters should send diskette copies to the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

### D. Ordering Clauses

51. Accordingly, IT IS 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 *Notice of Proposed Rule Making* IS HEREBY ADOPTED.

52. IT IS FURTHER ORDERED, that, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), the petition for rule making filed by Globe Wireless, Inc. on February 17, 1999, IS GRANTED.

53. IT IS FURTHER ORDERED, that the petition for reconsideration filed by WJG MarITEL Corporation, on February 23, 1999, IS GRANTED.

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

#### **E. Further Information**

55. For further information, contact Keith Fickner, [kfickner@fcc.gov](mailto:kfickner@fcc.gov), or Ghassan Khalek, [gkhalek@fcc.gov](mailto:gkhalek@fcc.gov), Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0680, or TTY (202) 418-7233.

56. Alternative formats (computer diskette, large print, audiocassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418-0260, TTY (202) 418-2555, or at [mcontee@fcc.gov](mailto:mcontee@fcc.gov). This *Notice* can also be downloaded at: <http://www.fcc.gov/dtf/>

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas  
Secretary