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

SEP 11 2006

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. <u>92-257</u>
Concerning Maritime Communications)	

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

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By the Commission:

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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.