

G. 2002 Biennial Review

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

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

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

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

²⁰¹ See *id.* at 3165 ¶ 88.

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

²⁰³ See 47 C.F.R. § 80.203(b)(3).

²⁰⁴ See Globe Wireless Comments at 1.

²⁰⁵ See MariTEL Reply Comments at 3-4.

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

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

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

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

²⁰⁸ See 47 C.F.R. § 80.207(d).

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

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

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

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

²¹³ See USCG Reply Comments at 2.

²¹⁴ *Id.*

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

(continued....)

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

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

(...continued from previous page)

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

²¹⁶ See Globe Wireless Comments at 2.

²¹⁷ See 47 C.F.R. §§ 80.355, 80.357.

²¹⁸ See RTCM Comments at 18.

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

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

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

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

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

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

²²⁵ See 47 C.F.R. § 80.371(a).

²²⁶ See 47 C.F.R. § 80.371(b)(1).

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

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

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

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

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

²³⁰ See 47 C.F.R. § 80.207(d), n.5.

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

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

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

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

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

²³⁶ See RTCM Comments at 18-19.

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

(continued....)

H. Other Matters.

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

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

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

(...continued from previous page)

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

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

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

²⁴⁰ See 47 C.F.R. § 80.15(d).

²⁴¹ See 47 U.S.C. § 305(b) (1995).

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

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

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

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

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

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

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

²⁴⁶ See 46 U.S.C. § 53103(a).

²⁴⁷ See 46 U.S.C. § 53107.

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

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

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

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

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

²⁴⁹ See 47 C.F.R. § 80.43.

²⁵⁰ See 47 C.F.R. § 80.51.

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

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

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

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

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

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

²⁵³ See 47 C.F.R. § 80.203(g).

²⁵⁴ *Id.*

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

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

²⁵⁷ See ITU Resolution 352 (WRC-03).

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

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

²⁶⁰ See 47 C.F.R. § 80.371(b)(2).

²⁶¹ See 47 C.F.R. § 80.385(d).

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

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

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

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

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

²⁶² See 47 C.F.R. § 80.371(c)(1).

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

²⁶⁴ See 47 C.F.R. § 80.373(f).

²⁶⁵ See 47 C.F.R. § 80.871(d).

²⁶⁶ See 47 C.F.R. § 80.933.

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

²⁶⁸ See 47 C.F.R. § 80.933(d).

²⁶⁹ See para. 5, *supra*.

²⁷⁰ See 47 C.F.R. § 80.1065.

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

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

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

(continued....)

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

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

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

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

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

(...continued from previous page)

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

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

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

²⁷⁶ See 47 C.F.R. § 80.1073(a).

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

²⁷⁸ See 47 C.F.R. §§ 13.7, 13.203.

²⁷⁹ See 47 C.F.R. § 80.1095.

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

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

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

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

V. THIRD FURTHER NOTICE OF PROPOSED RULE MAKING

A. INMARSAT-E Earth Stations

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

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

²⁸⁴ See para. 68, *infra*.

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

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

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

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

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

B. GPS Requirement for VHF-DSC Handheld Equipment

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

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

C. Carriage Requirements for Small Passenger Vessels

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

²⁸⁹ See USCG Comments at 1.

²⁹⁰ *Id.*

²⁹¹ *Id.* at 1-2.

²⁹² *Id.* at 2.

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

²⁹⁴ See paras. 34-39, *supra*.

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

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

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

E. Private Coast Station Frequencies

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

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

²⁹⁶ See 47 C.F.R. § 80.363.

²⁹⁷ See para. 50, *supra*.

²⁹⁸ See 47 C.F.R. § 80.511.

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

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

F. Radar Standards

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

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

³⁰¹ See 47 C.F.R. § 80.373(c)(2)(i).

³⁰² See 47 C.F.R. § 80.273.

³⁰³ RTCM Comments at 11-12.

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

³⁰⁵ See para. 45 & n.196, *supra*.

³⁰⁶ See RTCM Comments at 14.

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

80.273 of the Rules.

G. Testing of GMDSS Radio Equipment

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

VI. CONCLUSION

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

VII. PROCEDURAL MATTERS

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

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

B. Regulatory Flexibility Act

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

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

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

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

³¹¹ The RFA, see 5 U.S.C. §§ 601-612, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

³¹² 5 U.S.C. § 605(b).

³¹³ 5 U.S.C. § 601(6).

the term "small business concern" under the Small Business Act.³¹⁴ A small business concern is one which (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).³¹⁵

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

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

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

³¹⁴ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

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

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

³¹⁷ 5 U.S.C. § 605.

³¹⁸ *Id.* § 603.

³¹⁹ *Id.* § 603.

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

C. Comment Dates

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

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

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

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

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

³²⁰ *Id.* § 603(a).

D. Paperwork Reduction Act

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

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

E. Congressional Review Act

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

F. Further Information

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

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

VIII. ORDERING CLAUSES

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

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

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

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

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

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

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

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

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch
Secretary

APPENDIX A
Commenting Parties

Comments

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

Reply Comments

Inmarsat Ventures Limited (Inmarsat)
MariTEL
NPMRC
USCG

Ex Parte Presentations

National Marine Charter Association (NMCA)

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

APPENDIX B**Final Rules**

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

I. PART 13 -- COMMERCIAL RADIO OPERATORS

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

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

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

§ 13.7 Classification of operator licenses and endorsements.

(a) * * * * *

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

* * * * *

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

* * * * *

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

§ 13.13 Application for a renewed or modified license.

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

* * * * *

4. Section 13.15 is revised to read as follows:

§ 13.15 License term.

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

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

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

§ 13.203 Examination elements.

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

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

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

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

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

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

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

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

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

* * * * *

6. Section 13.215 is revised to read as follows:

§ 13.215 Question pools.

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

II. PART 80 -- STATIONS IN THE MARITIME SERVICES

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

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

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

§ 80.5 Definitions.

* * * * *

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

* * * * *

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

§ 80.15 Eligibility for station license.

* * * * *

(e) * * * * *

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

4. Section 80.43 is revised to read as follows:

§ 80.43 Equipment acceptable for licensing.

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

5. Section 80.51 is revised to read as follows:

§ 80.51 Ship earth station licensing.

A ship earth station must display the Commission license.

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

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

§ 80.103 Digital selective calling (DSC) operating procedures.

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

* * *

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

* * *

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

* * * * *

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

§ 80.123 Service to stations on land.

* * * * *

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

* * * * *

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

§ 80.148 Watch on 156.8 MHz (Channel 16).

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

* * * * *

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

§ 80.179 Unattended operation.

* * * * *

(e) * * * * *

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

* * * * *

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

§ 80.203 Authorization of transmitters for licensing.

* * * * *

(b) * * * * *

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

(i) Internal adjustment of the transmitter;

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

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

* * * * *

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

* * * * *

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

* * * * *

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

§ 80.207 Classes of emission.

* * * * *

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

| Types of stations | Classes of emission |
|--|---------------------|
| <p style="text-align: center;">Ship Stations¹</p> <p>Radiotelegraphy:</p> <p>100-160 kHz..... A1A</p> <p>405-525 kHz..... A1A, J2A</p> <p>1615-27500 kHz:</p> <p>Manual^{15, 16, 17}..... A1A, J2A, J2B, J2D</p> <p>DSC⁶..... F1B, J2B</p> <p>NB-DP^{14, 16}..... F1B, J2B, J2D</p> <p>Facsimile..... F1C, F3C, J2C, J3C</p> <p>156-162 MHz²..... F1B, F2B, F2C, F3C, F1D, F2D</p> <p>DSC..... G2B</p> <p>216-220 MHz³..... F1B, F2B, F2C, F3C</p> | |