



Federal Communications Commission
Washington, D.C. 20554

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DA 12-706

Small Entity Compliance Guide

Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications

WT Docket No. 00-48
FCC 10-110

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 1-866-418-0232
fccinfo@fcc.gov

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I. OBJECTIVES OF THE PROCEEDING

In this *Fourth Report and Order* in WT Docket No. 00-48, the Commission addressed a number of issues pertaining to the Maritime Radio Services that were raised in the *Third Further Notice of Proposed Rule Making (Third Further Notice)* and amended its rules accordingly. The decisions adopted by the Commission advance the key objectives underlying this proceeding, which are to promote maritime safety, maximize effective and efficient use of the spectrum available for maritime communications, accommodate technological innovation, avoid unnecessary regulatory burdens, maintain consistency with international maritime standards to the extent consistent with the United States' public interest, and regulate the Maritime Radio Services in a manner that advances our nation's homeland security.

II. REGULATIONS AND POLICIES THAT THE COMMISSION ADOPTED OR MODIFIED, INCLUDING COMPLIANCE REQUIREMENTS

In the *Fourth Report and Order* the Commission took the following actions:

- prohibited the certification, manufacture, importation, sale, installation, or continued use of INMARSAT-E emergency position indicating radiobeacons (EPIRBs), amending Section 80.1053 of its Rules to state that “[t]he manufacture, importation, or sale in the United States of Class A, Class B, Class S, or IMARSAT-E EPIRBs is prohibited. New Class A, Class B, Class S, or INMARSAT-E EPIRBs will no longer be certified by the Commission.”;
- concluded that VHF-DSC handheld radiotelephones should include integrated Global Positioning System (GPS) capability, but deferred adopting such a requirement until the Radio Technical Commission for Maritime Services (RTCM) completes work on GPS performance standards;
- required that any small passenger vessel that does not have a reserve power supply carry at least one VHF handheld marine radio transceiver;
- declined at this time to provide additional spectrum for ship station facsimile communications or to permit the transmission of data on maritime voice channels;
- eliminated the limits on the number of frequencies that can be assigned to a private coast station or marine utility station;
- revised the Part 80 rules to incorporate by reference the latest international standards for radar and other equipment; and
- clarified that vessels subject to Global Maritime Distress and Safety System (GMDSS) requirements are required to test their radiotelephone equipment on a daily basis.

A. INMARSAT-E Earth Stations

The Commission adopted its proposal in the *Third Further Notice* to prohibit any further certification, manufacture, importation, installation, or use of INMARSAT-E EPIRBs because they are obsolete.

B. GPS Requirement for VHF-DSC Handheld Equipment

The Commission concluded that Part 80 should be amended to require that all VHF-DSC handheld radiotelephones include integrated GPS capability. However, the Commission will not establish a specific GPS capability requirement for VHF-DSC handheld radiotelephones. The Commission deferred amending Part 80 until RTCM completes its ongoing efforts to develop performance standards for GPS processors. The FCC anticipates adopting a Notice of Proposed Rule Making after RTCM's GPS standards are finalized.

C. Carriage Requirements for Small Passenger Vessels

The Commission amended the rules to require carriage of at least one VHF handheld marine radio transceiver on all small passenger vessels that do not have a reserve power supply. The Commission will require compliance with the requirement for carriage of a VHF handheld marine radio transceiver (or a

reserve power supply) by January 2, 2013, one year after the effective date of the rule amendment,, consistent with the one-year transition period the Commission adopted in the *Third Report and Order* with respect to the reserve power supply requirement. The FCC strongly encourages the owners and operators of all small passenger vessels to install a reserve power supply or at least carry one or more VHF handheld marine radio transceivers as soon as possible, in the interest of protecting their passengers and crew without further delay. The Commission will not require that all VHF handheld marine radio transceivers used in satisfaction of this requirement be Digital Selective Calling (DSC)-capable. The FCC's rules still permit certification of handheld maritime transmitters that do not have DSC capability and small passenger vessels are not yet required to carry a VHF radiotelephone with DSC capability. However, the Commission encourages the owners and operators of small passenger vessels that do not carry a reserve power supply to carry handheld VHF-DSC equipment.

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

Based on the existing record, it would be premature to expand the spectrum allotted for maritime facsimile or data communications. The record indicates that while there is a growing demand for spectrum for maritime non-voice communications, there has been no diminution in the demand for maritime voice channels, which remain both congested and essential for maritime safety. Therefore, the Commission declined to take any action in this regard at this time.

E. Private Coast Station Frequencies

The Commission eliminated the limits on the number of frequencies that can be assigned to a private coast station or marine utility station because such limits are unnecessary because these frequencies are licensed on a shared, non-exclusive basis.

F. Radar Standards

The Commission incorporated IEC 62388 as the applicable IEC standard for radar installations on board ships that are required to carry radar under the SOLAS Convention or Coast Guard regulations, and incorporated by reference IEC 62252 as a testing standard for radar on voluntary vessels. Requiring compliance with IEC 62252 will promote navigation safety without being unduly burdensome for manufacturers. The Commission prohibited the installation of non-compliant radar equipment, *i.e.*, radar equipment that was certified under the old standards, on January 3, 2012, the effective date of these rule amendments. However, the FCC grandfathered all certified radar equipment installed prior to January 3, 2012, for the remaining useful life of the equipment. This grandfathering protection will obviate any need for mariners to incur the cost of prematurely replacing recently installed radar equipment that was certified under the old standards.

The incorporation of the international radar standards will promote maritime safety by ensuring that vessels operate with the most advanced radar technology. In addition, the incorporation by reference of these standards should not create a new compliance burden on the owners and operators of vessels, or manufacturers of radar equipment, because they are already using and manufacturing radar equipment in accordance with the international standards.

G. Testing of GMDSS Radio Equipment

The Commission amended Subpart W to clarify that GMDSS vessels are still required to test radiotelephone equipment on a daily basis. The Commission also clarified that handheld sealed lifeboat radios, EPIRBs, Automatic Identification System (AIS) Search and Rescue Transponders (SARTs) and radar SARTs are not considered to be "radiotelephone equipment" and therefore continue to be subject to weekly rather than daily testing.

III. RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS

Two rule amendments adopted in the *Fourth Report and Order* could potentially have a direct, significant economic impact and may affect reporting, recordkeeping and other compliance requirements on a substantial number of small entities.

First, the Commission amended Section 80.917 of its Rules to require carriage of at least one VHF handheld marine radio by any small passenger vessel that does not carry a reserve power supply. This requirement could affect small entities that own or operate small passenger vessels which do not carry a reserve power supply either in compliance with a pre-existing Commission requirement or voluntarily.

This action benefits the small passenger vessel owners and operators that are subject to this new requirement to carry a VHF handheld marine radio transceiver insofar as it accords them a significantly less-costly alternative to carriage of a reserve power supply in order to meet their obligation to passengers and crew to have a means of maintaining communication with search and rescue personnel in the event of a disruption to the main power supply during a distress situation. The Commission is only requiring compliance with the requirement for carriage of a VHF handheld marine radio transceiver (or a reserve power supply for those small passenger vessels that elect to install a reserve power supply voluntarily as an alternative) within one year after the effective date of this rule amendment, in keeping with the one-year transition period the Commission adopted in the *Third Report and Order* with respect to the reserve power supply requirement. In addition, the Commission estimated the retail cost of VHF handheld marine radio transceivers to be under fifty dollars, a cost which is outweighed by the public safety benefits of mandating carriage of such equipment on small passenger vessels.

Second, the Commission amended Sections 80.273 and 80.1101 of its Rules to incorporate by reference the currently applicable international standards for marine radar. This could affect small entities that manufacture or use marine radar equipment.

Although the incorporation by reference of the international radar standards will impose new Part 80 requirements on certain vessels which have not been subject to Commission radar standards to date, such vessels would have to meet the international radar requirements when operating in international waters, irrespective of the Part 80 rules, so the incorporation by reference of the international radar standards should not create a new compliance burden on the owners and operators of those vessels.

This rule change will not be burdensome to either vessel owners and operators or to manufacturers of radar equipment, whether or not they are small entities. In addition, the Commission has accorded considerable flexibility to users of marine radar equipment, including small entities, by grandfathering all certified radar equipment installed prior to the effective date of these rule amendments, for the remainder of its useful life.

For details of other compliance requirements, refer to the *Fourth Report and Order*.

IV. WEBLINK

The *Fourth Report and Order*, FCC 10-110, adopted June 7, 2010 and released June 10, 2010. Final rules adopted in the *Fourth Report and Order* became effective on January 3, 2012.

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-110A1.doc

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