



RECEIVED MAY 29 2001

Federal Communications Commission
Washington, D.C. 20554

May 22, 2001

Ms. Dianne MacDonald
Seimac Limited
271 Brownlow Avenue
Dartmouth, Nova Scotia
Canada B3B 1W6

RE: Request for Waiver of Section 80.1061 of the Commission's Rules

Dear Ms. MacDonald:

We have before us your letter, dated March 26, 2001, requesting a waiver of the Commission's Rules to permit certification of the "PRO-Find 406" Emergency Position Indicating Radio Beacon (EPIRB). Specifically, you request a waiver of Section 80.1061 of the Commission's Rules¹ to permit use of the frequency 406.028 MHz for a new 406 MHz EPIRB. For the reasons discussed herein, we grant the requested waiver to permit certification of an EPIRB operating on frequency 406.028 MHz, with certain conditions.

Currently, the Commission's rules provide for 406 MHz EPIRBs that transmit on frequency 406.025 MHz.² COSPAS/SARSAT,³ a joint international satellite-based search and rescue system established by Canada, Russia, and the United States used to locate emergency radio beacons transmitting on 121.5 MHz and 406 MHz, has mandated that 406 MHz beacons type approved after January 1, 2002 shall transmit on 406.028 MHz.⁴ For COSPAS/SARSAT purposes, the frequency change from 406.025 MHz to 406.028 MHz is currently allowed as an option of the manufacturer, but will be mandatory for new beacon models presented for certification and approved by COSPAS/SARSAT after January 1, 2002.⁵ The United States Coast Guard (Coast Guard) has noted in its comments to WT Docket No. 00-48⁶ that COSPAS/SARSAT decided to migrate new satellite EPIRBs to 406.028 MHz in order to prevent saturation on the 406.025 MHz frequency.⁷ We note that the Radio Technical Commission for Maritime Services

¹ 47 C.F.R. § 80.1061.

² See 47 C.F.R. § 80.1061.

³ COSPAS is an acronym for a Russian phrase meaning space system for search of vessels in distress. SARSAT stands for search and rescue satellite-aided tracking.

⁴ Specifications for COSPAS/SARSAT 406 MHz Distress Beacons, C/S T.001, Issue 3 – Revision 2, October 1998.

⁵ *Id.*

⁶ See Amendment of Part 13 and 80 of the Commission's Rules concerning Maritime Communications, Notice of Proposed Rule Making and Memorandum Opinion and Order, WT Docket No. 00-48, 15 FCC Rcd 5942 (2000) (Maritime NPRM).

⁷ Coast Guard Comments (WT Docket No. 00-48) at 26.

(RTCM), an industry standards-setting organization, has updated the technical and performance standards for 406 MHz EPIRBs to reflect the international change.⁸

Section 80.1061 of the Commission's Rules requires that 406 MHz EPIRBs must meet all the technical and performance standards contained in the RTCM document entitled "RTCM Recommended Standards for 406 MHz Satellite Emergency Position-Indicating Radiobeacons (EPIRBs)" dated July 31, 1987, with editorial updates of December 31, 1987. This RTCM standard requires that EPIRBs transmit on the frequency 406.025 MHz. You request a waiver of the requirement that 406 MHz EPIRBs transmit on the frequency 406.025 MHz, to allow you to submit your new PRO-Find 406 EPIRB, which operates on 406.028 MHz, for certification in the United States. There is no provision in the Commission's Rules for operating on frequency 406.028 MHz as envisioned by the new COSPAS/SARSAT standards.⁹ Accordingly, certification of 406.028 MHz EPIRBs currently may not be obtained absent a waiver of Section 80.1061 of the Commission's Rules.

Section 1.925 of the Commission's Rules provides that we may grant a waiver if it is shown that (a) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and grant of the requested waiver would be in the public interest; or (b) in light of unique or unusual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.¹⁰ We find that your waiver request is warranted under the circumstances presented. We note, as an initial matter, that we have granted a similar waiver regarding use of the frequency 406.028 MHz for a new 406 MHz EPIRB.¹¹ Further, we conclude that the underlying purpose of the subject rule would not be served by application to the instant case and grant of the requested waiver would be in the public interest. We believe that a waiver would further the purpose of Section 80.1061 of the Commission's Rules, which is to ensure that 406 MHz EPIRBs are compatible with COSPAS/SARSAT satellites.¹² Our belief is premised on the fact that COSPAS/SARSAT has decided to use frequency 406.028 MHz as the transmission frequency for the 406 MHz EPIRBs after January 2, 2002. In addition, we find that grant of the requested waiver is in the public interest. In this connection, we believe that the use of the frequency mandated by COSPAS/SARSAT will relieve congestion on frequency 406.025 MHz, as well as provide a new frequency for distress alerting, thereby improving emergency communications. As noted above, RTCM has approved updated standards for the use of frequency 406.028 MHz for 406 MHz EPIRBs. Thus, we conclude that you have made the requisite showing that a grant of a waiver of Section 80.1061 of the Commission's Rules to permit certification of your PRO-Fine 406 EPIRB is warranted.

⁸ RTCM Recommended Standards for 406 MHz Satellite Emergency Position-Indicating Radiobeacons (EPIRBs), Version 2.1, RTCM Paper 82-2000/SC110-STD.

⁹ We note, however, that the Commission currently is reviewing its Part 80 rules in WT Docket No. 00-48 to determine which regulations need to be updated. See *Maritime NPRM*, 15 FCC Rcd at 5944 ¶ 1.

¹⁰ 47 C.F.R. § 1.925(b)(3). See also *WAIT Radio v FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

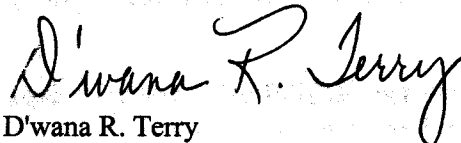
¹¹ See *McMurdo Limited, Order*, 15 FCC Rcd 24915 (WTB PSPWD 2000).

¹² See Amendment of the Maritime Service Rules to allow ships to use 406.025 MHz emergency position indicating radiobeacons for distress alerting and search and rescue functions, *Report and Order*, RM-5166, 3 FCC Rcd 5406, 5408 ¶ 18 (1988).

Accordingly, IT IS ORDERED that, pursuant to Sections 4 (i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154 (i), and Section 1.925 of the Commission's Rules, 47 C.F.R. §1.925, the request for waiver of Section 80.1061, 47 C.F.R. § 80.1061, filed on March 26, 2001, by Seimac Limited, is GRANTED, to the extent necessary to permit certification of its EPIRB, FCC Identification Number PGSEPIRB, SUBJECT TO THE CONDITION that the requirements set forth in RTCM Recommended Standards for 406 MHz Satellite Emergency Position-Indicating Radiobeacons (EPIRBs), Version 2.1, RTCM Paper 82-2000/SC110-STD are met.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131 and 0.331.

FEDERAL COMMUNICATIONS COMMISSION



D'wana R. Terry

Chief, Public Safety and Private Wireless Division

Wireless Telecommunications Bureau