

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

In the Matter of)
)
MCMURDO LIMITED)
)
Request for Waiver of Section 80.1061)
of the Commission's Rules Governing)
406.025 MHz Emergency Position Indicating)
Radio Beacons)

ORDER

Adopted: December 13, 2000

Released: December 19, 2000

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* Under consideration is a request for waiver filed by McMurdo Limited (McMurdo) on October 16, 2000.¹ McMurdo seeks waiver of Section 80.1061 of the Commission's Rules² to permit use of the frequency 406.028 MHz for a new 406 MHz emergency position indicating radio beacon (EPIRB)³. For the reasons discussed herein, we grant the requested waiver to permit the use of 406.028 MHz.

2. *Background.* Currently, 406 MHz EPIRBs transmit on frequency 406.025 MHz.⁴ COSPAS/SARSAT,⁵ a joint international satellite-based search and rescue system established by Canada, Russia, and the United States 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.⁶ 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, 2002.⁷ The United States Coast Guard (Coast Guard) has noted in its

¹ Letter to D'wana R. Terry, Chief, Public Safety and Private Wireless Division, Federal Communications Commission from Richard Read, Senior Engineer, McMurdo Limited, dated October 16, 2000 (*McMurdo Letter*).

² 47 C.F.R. § 80.1061.

³ EPIRBs are small, battery powered transmitters carried on ships for the purpose of sending a distress signal in an emergency. *See* Temporary Waiver of the Maritime Service Rules (Part 80) to Permit Higher Power Operation of 406 MHz Emergency Position Indicating Radio Beacons, DA 92-1724, 8 FCC Rcd. 34 (1992).

⁴ *See id.*

⁵ 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.

⁶ Specifications for COSPAS/SARSAT 406 MHz Distress Beacons, C/S T.001, Issue 3 – Revision 2, October 1998.

⁷ *Id.*

comments to WT Docket No. 00-48⁸ that COSPAS/SARSAT decided to migrate new satellite EPIRBs to 406.028 MHz in order to prevent saturation on the 406.025 MHz frequency.⁹ The Radio Technical Commission for Maritime Services (RTCM), an industry standards-setting organization, has updated the technical and performance standards for 406 MHz EPIRBs to reflect the international change.¹⁰

3. On October 16, 2000, McMurdo requested a waiver of Section 80.1061 of the Commission's Rules to permit the use of frequency 406.028 MHz for a new 406 MHz EPIRB. 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. McMurdo requests a waiver of the requirement that 406 MHz EPIRBs transmit on the frequency 406.025 MHz. Such a waiver would allow McMurdo to submit its 406.028 MHz EPIRB for certification in the United States. There is no provision in the Commission's Rules for operating on 406.028 MHz as envisioned by the new COSPAS/SARSAT standards.¹¹ Accordingly, certification of 406.028 MHz EPIRBs currently may not be obtained absent a waiver of Section 80.1061 of the Commission's Rules. On November 6, 2000, we placed McMurdo's request on public notice.¹²

4. *Discussion.* 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.¹³ We find that the waiver requested by McMurdo is warranted under the circumstances presented. Specifically, 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, which is to ensure that 406 MHz EPIRBs are compatible with COSPAS/SARSAT satellites,¹⁴ given that COSPAS/SARSAT has decided to use 406.028 as the

⁸ 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*).

⁹ Coast Guard Comments (WT Docket No. 00-48) at 26.

¹⁰ RTCM Recommended Standards for 406 MHz Satellite Emergency Position-Indicating Radiobeacons (EPIRBs), Version 2.1, RTCM Paper 82-2000/SC110-STD.

¹¹ 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.

¹² Wireless Telecommunication Bureau Seeks Comment on Request for Waiver by McMurdo Limited to Permit Use of Frequency 406.028 MHz for 406 MHz Emergency Position Indicating Radio Beacon (EPIRB), *Public Notice*, DA 00-2345 (WTB PSPWD rel. Nov. 6, 2000). We received two comments. The commenters were the Coast Guard and the National Oceanic and Atmospheric Administration (NOAA).

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

¹⁴ 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).

transmission frequency for the 406 MHz EPIRBs after January 2, 2002. In addition, we find that grant of the requested waiver would be in the public interest. In this connection, we believe that the use of the frequency mandated by COSPAS/SARSAT will relieve congestion on 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 406.028 MHz for 406 MHz EPIRBs. Moreover, the National Oceanic and Atmospheric Administration (NOAA) and the Coast Guard fully support McMurdo's request for waiver.¹⁵ Thus, we conclude that McMurdo has made the requisite showing that a grant of a waiver of Section 80.1061 of the Commission's Rules to permit certification of its new 406 MHz EPIRB is warranted under the circumstances presented.

5. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, that the Request for Waiver of Section 80.1061 filed by McMurdo Limited on October 16, 2000 is GRANTED subject to the condition that McMurdo meet 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.

6. IT IS FURTHER ORDERED that Section 80.1061 of the Commission's Rules, 47 C.F.R. § 80.1061, IS WAIVED to the extent necessary to permit certification of McMurdo's EPIRB, FCC Identification Number KLS-82-501.

7. 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, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

¹⁵ NOAA comments at 1, Coast Guard comments at 1.