

Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128, Notice of Proposed Rulemaking, 69 FR 2697, January 20, 2004. Accordingly, comments were due by February 9, 2004, and reply comments were due by February 19, 2004. The Bureau subsequently granted the joint request of Evercom Systems, Inc., T-NETIX, Inc., and Corrections Corporation of America for a one-month extension of the deadline so that parties could file comments by March 10, 2004, and reply comments by March 31, 2004. See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128, Notice of Proposed Rulemaking; Comment Periods Extended, 69 FR 7615, February 18, 2004.

On March 16, 2004, the Wright Petitioners filed a motion to extend the deadline for filing reply comments in this proceeding. In their pleading, the Wright Petitioners contend that many of the oppositions submitted in response to the *Wright Petition* are supported by multiple expert affidavits and studies each of which will require time-consuming analysis and rebuttal by the Wright Petitioners' expert. The Wright Petitioners further assert that such analysis and rebuttal can not be completed in the current 15-day reply comment period. T-NETIX, a commenter in the proceeding, has consented to the motion. T-NETIX asserts that the extension is warranted given the extensive initial comments filed in response to the *Wright Petition* and the crucial legal and public policy issues at stake. No oppositions to the request for an extension of time have been filed.

It is the policy of the Commission that extensions of time are not routinely granted. See 47 CFR 1.46(a). In this instance, however, the Bureau finds that the commenters have shown good cause for an extension of the deadline for filing comments and reply comments in this proceeding. Because of the complexity of the issues, the related necessary economic analysis, and the length of the pleadings, we grant a limited extension so that parties may file reply comments by April 21, 2004. This matter shall continue to be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 CFR 1.1206. All other requirements discussed in the **Federal Register** publication of the *Wright Public Notice* remain in effect. See Implementation of the Pay Telephone Reclassification and

Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128, Notice of Proposed Rulemaking, 69 FR 2697, January 20, 2004.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13 and 80

[WT Docket No. 00–48; RM–9499; FCC 04–3]

Maritime Communications

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission solicits comment on the Commission's rules governing the Maritime Radio Services. These comments will aid the Commission in establishing rules to further the implementation of the Global Maritime Distress and Safety System (GMDSS) and continue the process of streamlining, consolidating and revising domestic maritime radio regulations. In addition, the comments will aid the Commission in assessing the impact that possible rule changes may have on the maritime community, including vessel operators, manufacturers of marine radio equipment, and commercial radio operator licensees. These comments will provide the Commission with feedback that will allow it to better craft rules that will enhance safety while at the same time avoiding the imposition of unnecessary or unwarranted burdens on regulated entities.

DATES: Written comments are due on or before June 7, 2004, and reply comments are due on or before July 6, 2004.

ADDRESSES: Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See **SUPPLEMENTARY INFORMATION** for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Jeffrey Tobias, Jeff.Tobias@FCC.gov, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418–0680, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Second Further Notice of Proposed Rulemaking (Second FNPRM) in WT Docket No. 00–48, FCC 04–3, adopted on January 8, 2004, and released on February 12, 2004. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at bmillin@fcc.gov.

1. In the Second FNPRM, the Commission solicits comment on whether the Commission should: (i) Revise the requirements for digital selective calling (DSC) equipment to comport with international standards that were adopted after the Commission last requested comment on this issue; (ii) add the INMARSAT F–77 ship earth station to the list of ship earth stations that are authorized to be used in lieu of a single sideband radio by vessels traveling more than 100 nautical miles from shore; (iii) require all small passenger vessels to have a reserve power source; (iv) make certain commercial radio operator licenses and permits valid for the lifetime of the holder, obviating the need for such licensees to file periodic renewal applications; (v) introduce greater flexibility into the examination process by removing rule provisions that codify the number of questions for each examination element and that require the exclusive use of new question pools immediately upon their public availability; (vi) adopt technical standards for equipment to be used in the Ship Security Alert System; (vii) further update part 80 of the Commission's rules in response to recent changes in international standards, and specifically whether certain on-board frequencies should be authorized for narrowband use domestically; and (viii) revise or eliminate certain part additional 80 rules pursuant to recommendations submitted in the Commission's 2002 Biennial Review proceeding.

I. Procedural Matters

A. *Ex Parte* Rules—Permit-But-Disclose Proceeding

2. 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 the Commission's rules.

B. *Comment Dates*

3. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before June 7, 2004 and reply comments on or before July 6, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

4. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, 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 for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. 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, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. Filings can be sent first class by the U.S. Postal Service, by an overnight courier or hand and message-delivered. Hand and message-delivered paper filings must be delivered to 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Overnight courier (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

5. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Jeffrey Tobias, Wireless Telecommunications Bureau, 445 12th St., SW., Room 4-A366, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case, WT Docket No. 00-48), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters should send diskette copies to the Commission's copy contractor, Qualex International, Inc., 445 12th St., SW., Room CY-B402, Washington, DC 20554.

C. *Paperwork Reduction Act*

6. The Second FNPRM does not contain any new or modified information collection.

II. Initial Regulatory Flexibility Analysis

7. As required by the RFA, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the rules proposed or discussed in the Second FNPRM. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the Second FNPRM 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 Second FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act (RFA).

A. *Need for, and Objectives of, the Proposed Rules*

8. In the Second FNPRM, we seek comment on rule amendments that are intended to enhance maritime safety, promote the efficient use of the maritime radio spectrum, and, to the extent consistent with these first two objectives, remove unnecessary regulatory burdens. We also seek to

conform the Commission's part 80 rules with international standards where doing so will not undermine domestic regulatory objectives. In the Second FNPRM, we first request comment on whether we should adopt new requirements for digital selective calling equipment that conform to recently adopted international standards for such equipment. Second, we invite comment on whether to augment the list of ship earth stations approved for use in lieu of a single sideband radio. Specifically, we invite comment on whether to add the INMARSAT F-77 ship earth station to the list. Next, we seek comment on a recommendation by the National Transportation Safety Board to require that all small passenger vessels have a reserve power source. In addition, we ask interested parties to consider whether we should make certain commercial radio operator licenses and permits valid for the lifetime of the holder, obviating the need for such licensees to file periodic renewal applications. We also ask for comment on whether we should introduce greater flexibility into the examination process by removing rule provisions that codify the number of questions for each examination element and that require the exclusive use of new question pools immediately upon their public availability. In addition, we request comment to assist us in crafting rules to guide the industry in making communications equipment that will meet the functional needs of the Ship Security Alert System. We also invite recommendations for further updating of part 80 of our rules in response to recent changes in international standards, and specifically request comment on whether certain on-board frequencies should be authorized for narrowband use domestically, as they are internationally. Finally, we request comment on suggestions by both Globe Wireless and the Commission that certain regulatory provisions have become outdated, and therefore should be revised or eliminated.

B. *Legal Basis for Proposed Rules*

9. The proposed action is authorized under sections 1, 4(i), 302, 303(f) and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(i), 302, 303(f) and (r), and 332.

C. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

10. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA

defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (i) Is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 governmental entities in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96%, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96%) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by adoption of rules discussed in the Second FNPRM.

11. Small businesses in the aviation and marine radio services use a marine very high frequency (VHF), medium frequency (MF), or high frequency (HF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, an aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. For purposes of this IRFA, therefore, the applicable definition of small entity is the definition under the SBA rules applicable to wireless telecommunications. Pursuant to this definition, a "small entity" for purposes of the ship station licensees, public coast station licensees, or other marine radio users that may be affected by these rules, is any entity employing 1,500 or fewer persons. 13 CFR 121.201 (NAICS Code 517212). Since the size data provided by the Small Business Administration do not enable us to make a meaningful estimate of the number of marine radio service

providers and users that are small businesses, we have used the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. This document shows that twelve radiotelephone firms out of a total of 1,178 such firms which operated in 1992 had at least 1,000 employees. Thus, we estimate that as many as 1,166 small entities may be affected. We invite comment on whether this is the correct definition to use in this context. We note in this regard that one of the discussed rule changes would affect small passenger vessels, and the Passenger Vessel Association has stated in comments in this proceeding that the vast majority of U.S. passenger vessel operating companies are small businesses. We accordingly request commenters to consider whether the number of small passenger vessel operators potentially affected by the rule is not fully reflected in the above definition and estimate. In keeping with the spirit of the RFA, we choose to err, if at all, on the side of overestimating the number of small entities potentially affected by these rules.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

12. We believe two of the possible rule changes discussed in the Second FNPRM may potentially have a direct, significant economic impact on a substantial number of small entities. As noted, we have requested comment on whether to impose new requirements on digital selective calling equipment in conformity with recently adopted international standards for such equipment. We invite interested parties to address the economic impact of the new requirements on small vessel operators and other small businesses that may be subject to the requirements. It is our tentative conclusion that mandating compliance with the new requirements will benefit maritime safety. We seek information on whether the compliance costs may outweigh the safety benefits of these requirements, and whether there are alternative means of securing the safety benefits of these requirements through means that are less burdensome to regulatees.

13. In addition, we have requested comment on an NTSB recommendation that the Commission amend its rules to require that small passenger vessels have VHF radiotelephone communications systems on board that can operate even when the vessel loses power. Currently, § 80.917 of the Commission's rules imposes a

requirement on vessels of more than 100 gross tons to have a reserve power supply. Adoption of the NTSB recommendation would in effect remove the tonnage limitation from § 80.917, and impose the reserve power supply requirement on all passenger vessels, regardless of size. The NTSB states that imposing the reserve power supply requirement on all small passenger vessels will prevent accidents and save lives. Imposition of such a requirement would likely require small passenger vessel operators, including small passenger vessel operators that are small entities, to purchase and install additional equipment on their vessels. The record in this proceeding does not indicate the estimated cost of such equipment or the estimated overall costs of compliance with such a requirement. In the Second FNPRM, we specifically ask commenters to provide information on the costs to small vessel operators of complying with such a requirement, and we reiterate that request here.

14. We do not believe any of the other matters discussed in the Second FNPRM would have a direct, significant economic impact on a substantial number of small entities. However, any commenters that disagree with that tentative conclusion are asked to explain the basis of that disagreement.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

15. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design standards; and (iv) an exemption from coverage of the rule, or any part thereof, for small entities.

16. In the Second FNPRM, we request comment on whether to incorporate into the Commission's rules newly adopted international standards for digital selective calling equipment. We describe here, and seek comment on, possible alternatives to imposing these new requirements that might minimize the economic impact on small entities. First, we ask commenters to consider whether it would be appropriate to exempt small businesses from any additional requirements for digital selective calling equipment that may be

adopted. Commenters advocating such an exemption should propose criteria for identifying entities that should be exempt, and should explain why they believe such an exemption represents a reasonable compromise between the goals of promoting maritime safety and minimizing compliance costs for small entities. In addition, if we do determine to impose new requirements on digital selective calling equipment, we would consider whether we should grandfather some vessels from the requirement, either indefinitely or for a specified term of years, or whether there should be a phased-in schedule for compliance, with possibly different compliance timetables for vessels based, possibly, on vessel size or on whether the vessel operator is a small business. Interested parties should address these alternatives. Finally, we seek comment on whether an alternative equipment requirement, less costly to small passenger vessel operators, could provide the same or similar safety benefits as the international standards. Proponents of such an alternative requirement should compare the estimated costs of complying with the international digital selective calling equipment standards with the estimated costs of complying with the proposed alternative, and explain why they believe the proposed alternative will be adequate to address safety concerns. Commenters are also invited to suggest alternatives other than those discussed here.

17. In the Second FNPRM, we also invite comment on an NTSB recommendation to require that small passenger vessels, regardless of size, have VHF radiotelephone communications systems on board that can operate even when the vessel loses power. We tentatively conclude that the most direct way of imposing such a requirement is removing the tonnage limitation in § 80.917, which now exempts vessels of 100 gross tons or less from an otherwise applicable reserve power supply requirement. However, we also specifically ask interested parties to recommend other means of addressing the safety needs of small vessel operators, crewmembers, and passengers, either as alternatives to the NTSB recommendation or as supplementary measures.

18. We describe here, and seek comment on, possible alternatives to the NTSB recommendation that might minimize the economic impact on small entities. First, we ask commenters to consider whether the reserve power supply requirement should be expanded only to a subset of additional small passenger vessels rather than to all

small passenger vessels. For example, instead of eliminating the tonnage limitation in current § 80.917, we might simply lower the threshold. Commenters advocating a lowered tonnage threshold should recommend a specific threshold and explain why they believe it represents a reasonable compromise between the goals of promoting maritime safety and minimizing compliance costs for small entities. Alternatively, we could restrict the applicability of the reserve power supply requirement based on the size of the small passenger vessel operator, perhaps exempting only those small passenger vessel operators that meet the statutory definition of a small business. Commenters advocating such an approach should explain, *inter alia*, if it might result in exempting certain vessels exceeding 100 gross tons that are now fully subject to the reserve power supply requirement, and the ramifications of such an exemption for maritime safety. In addition, we might consider providing a continuing exemption for vessels below a certain size, or owned by a small business, that operate only in protected inland waterways. If we do determine to impose a reserve power supply requirement on all small passenger vessels, we would consider whether we should grandfather some vessels from the requirement, either indefinitely or for a specified term of years, or whether there should be a phased-in schedule for compliance, with possibly different compliance timetables for vessels based, possibly, on vessel size or on whether the vessel operator is a small business. Interested parties should address these alternatives. Finally, we seek comment on whether an alternative equipment requirement, less costly to small passenger vessel operators, could provide the same or similar safety benefits as a reserve power supply requirement. Proponents of such an alternative requirement should compare the estimated compliance costs of the reserve power supply requirement with the estimated compliance costs of the proposed alternative, and explain why they believe the proposed alternative will be adequate to address safety concerns. Commenters are also invited to suggest alternatives other than those discussed here.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

III. Ordering Clauses

19. The Commission's Consumer Information Bureau, Reference

Information Center, SHALL SEND a copy of this Second Further Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA-17359]

RIN 2127-AJ27

Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of preliminary theft data; request for comments.

SUMMARY: This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 2002 including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 2002. The preliminary theft data indicate that the vehicle theft rate for CY/MY 2002 vehicles (2.49 thefts per thousand vehicles) decreased by 23.6 percent from the theft rate for CY/MY 2001 vehicles (3.26 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

DATES: Comments must be submitted on or before June 7, 2004.

ADDRESSES: You may submit comments [identified by DOT Docket No. NHTSA-2004-17359 and or RIN number 2127-AJ27] by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building,