Federal Communications Commission
Washington, D.C. 20554

April 12, 2017

Gregory Hammann
Director Strategic Business Development
Marine Instruments
21405 Alum Creek Ct.
Ashburn, VA 20147

RE: Request for Waiver

Dear Mr. Hammann:

We have before us your letter, on behalf of Marine Instruments S.A. (Marine Instruments), requesting a waiver of the Commission's rules to permit equipment authorization for Marine Instruments' product, the M3P/M3P-T HF Radio Buoy (M3P).[1] Specifically, Marine Instruments requests waivers of the frequency stability measurement temperature variation of section 2.1055 of the Commission's rules and of the frequency stability limit of section 80.209 of the Commission's rules.[2] For the reasons set forth below, we grant the waiver request.

The M3P is a radio buoy that transmits the geographic coordinates of gear used in high seas fishing operations in order to facilitate safe and efficient gear recovery, and reduce navigational risk and ghost fishing. On February 29, 2016, the Wireless Telecommunications Bureau's Mobility Division (Division) granted Marine Instruments a waiver of sections 80.371 and 80.373 of the Commission's rules to permit certification and use of the M3P on frequencies in the 26 MHz band.[3] The Division concluded that a waiver was warranted because the device has minimal potential for interference to maritime communications because it transmits only intermittently; and grant was in the public interest because enabling fishing vessels to locate their fishing lines and nets more quickly enhances maritime safety, saves fuel, and reduces equipment loss.[4]

The *Order* provided that the M3P must meet all other applicable technical requirements.[5] Section 80.209 requires a frequency tolerance of 10 hertz for ship station equipment that transmits data

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[1] Letter from Gregory Hammann, Director Strategic Business Development, Marine Instruments, to Federal Communications Commission (Sept. 25, 2016) (Request).

[2] 47 CFR §§ 2.1055, 80.209.

[3] *See Datawell BV and Marine Instruments S.A.*, Order, 31 FCC Rcd 1733, 1735, para. 7 (WTB MD 2016).

[4] *See id.*

[5] *See id.* at 1735, para. 8.

emissions.[6] Section 2.1055 requires the frequency stability for equipment in the Maritime Radio Service to be measured with a variation in ambient temperature from -20° to +50° Centigrade.[7]

By letter dated September 25, 2016, Marine Instruments requested additional waivers with respect to the M3P. Specifically, you request a frequency tolerance of 50 hertz, measured over a temperature range of 0° to +50° Centigrade.[8] You state that a waiver of the frequency tolerance limit is needed because the M3P has a 200-hertz deviation, but Marine Instruments has a cost-effective solution that will reduce the frequency tolerance to 50 hertz.[9] You state that a waiver of the temperature range is appropriate because the M3P is not designed or marketed to operate below 0° Centigrade.[10] You argue that the increased frequency tolerance poses no additional risk of interference to maritime communications.[11]

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.[12] We believe that granting this waiver is in the public interest. The buoys increase safety at sea by enabling fishing vessels to cruise directly to their gear for recovery, and granting the request will likely make the device more readily available. Because the device operates with an emission bandwidth significantly narrower than typical operations in the band (approximately 526 hertz), a frequency tolerance increase to 50 hertz does not pose an increase in interference potential to adjacent users. We also agree that testing the device from 0° to +50° Centigrade is consistent with the temperature variations for seawater. We therefore grant the waiver request.

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 CFR § 1.925, that the waiver request of Marine Instruments S.A., dated September 25, 2016, IS GRANTED.

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[6] *See* 47 CFR § 80.209(a)(3)(ii).

[7] 47 CFR § 2.1055(a)(2).

[8] *See* Request at 2; Letter from Gregory Hammann, Director Strategic Business Development, Marine Instruments, to Tim Maguire, Federal Communications Commission (Jan. 24, 2017) (Change to Request).

[9] *See* Request at 2. Specifically, you state that meeting the 10 hertz specification would increase the price of the device by $95, an increase of 18.5%, which would be passed on to the fishermen. *See id.*; Letter from Gregory Hammann, Director Strategic Business Development, Marine Instruments, to Tim Maguire, Federal Communications Commission (Jan. 25, 2017).

[10] *See* Change to Request at 1.

[11] *See* Request at 2.

[12] 47 CFR § 1.925(b)(3); *see also WAIT Radio v FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

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

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau