institution of proceedings looking to suspension and revocation under 46 U.S.C. chapter 77 of licenses, certificates, and documents held by persons; and all other marine safety regulatory activities except those functions related to recreational boating when under the supervision of the Chiefs, Boating Safety Division, in the District Offices.

(2) Unless otherwise provided for, the Chiefs, Boating Safety Division, in the District Offices, under the supervision of their respective District Commanders, direct the activities in their districts relative to administration of the law enforcement program applicable to uninspected vessels used for recreational purposes and the imposition and collection of penalties in connection therewith; maintain liaison with Federal and State agencies having related interests; develop and coordinate agreements and arrangements with Federal and State agencies for cooperation in the enforcement of State and Federal laws related to recreational boating; and review investigative reports of recreational boating accidents.

* * * * *

Dated: October 5, 2006.

S.G. Venckus,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. E6–16904 Filed 10–11–06; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 80

[WT Docket No. 04–344; FCC 06–108]

Maritime Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission designates VHF maritime Channels 87B (161.975 MHz) and 88B (162.025 MHz) for Automatic Identification Systems (AIS). The designation of Channels 87B and 88B for AIS in the United States is consistent with establishment of a seamless global AIS framework, and will facilitate the broad, efficient and effective implementation of AIS in U.S. territorial waters. The intended effect of this action is to maximize the benefits of AIS for United States homeland security and maritime safety.

DATES: Effective November 13, 2006.

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 *Report and Order,* FCC 06–108, adopted on July 20, 2006, and released on July 24, 2006. 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, Best Copy and Printing, Inc., 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 sending an e-mail to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

1. In the *Report and Order,* the Commission affirms its tentative conclusion that, in light of current circumstances, the public interest would be served by designating Channel 87B for exclusive AIS use on a wideband simplex basis. Such an approach would result in both Channel 87B and the Federal Government Channel 88B being available for AIS use in U.S. territorial waters, just as they are used for that purpose internationally. Most commenters continue to favor this approach. However, MariTEL and a few other commenters oppose the designation of Channel 87B for AIS in the wideband simplex mode. These commenters contend that the use of duplex channels for AIS in the United States is technically feasible and should be preferred over wideband simplex AIS operation on Channel 87B because it would cause less disruption to existing VPC operations, preserve the efficiency benefits of duplex channelization throughout the VPC band, maximize the spectrum available for VPC communications, facilitate the implementation of wide-area VPC systems, reduce coordination requirements, permit VPC licensees to make full use of Channel 87, and minimize AIS interference to and from VPC operations. These comments focus primarily on the comparative impact on VPC operations of the various AIS channel designation options, but the Commission believes it is at least as important, if not more so, to consider the impact its decisions herein will have on AIS, a service specifically intended to enhance maritime domain awareness and navigational safety.

2. In the *Notice of Proposed Rule Making* in this proceeding (*AIS NPRM*), the Commission offered a number of reasons why it believed that the designation of Channel 87B for domestic AIS use on a wideband simplex basis would best promote the widespread, efficient and effective use of AIS, and thus the public interest in promoting and enhancing homeland security and maritime safety. Neither the comments to the *AIS NPRM* nor anything else in the record of this proceeding undermine the Commission's tentative conclusion that it would serve the public interest to designate Channel 87B for wideband simplex AIS use in the United States. Of critical importance, adoption of the Commission's proposal permits seamless worldwide AIS operations. As NTIA notes, use of Channels 87B and 88B for AIS communications in U.S. territorial waters will facilitate Coast Guard coordination with other nations in tracking and monitoring vessels.

3. In addition, the Commission remains concerned about the negative consequences that would arise if it does not designate Channel 87B for AIS use in the United States, because vessels on international voyages would have to switch from Channel 87B to other channels when entering U.S. territorial waters. As the Commission explained in the *AIS NPRM,* requiring vessels to switch channels as they transit an AIS ''fence'' between international and U.S. waters would create a risk that AIS tracking of such vessels, by both shore stations and other ship stations, would be interrupted. This temporary disappearance of vessels from AIS screens as they transit the AIS fence increases the risk of vessel collisions and creates a potential vulnerability in the Nation's maritime domain awareness. MariTEL concedes that the resultant need of vessels to switch channels when entering U.S. waters could be ''problematic,'' but argues that it should not preclude use of duplex channels for AIS in the United States. The Commission continues to believe that the potential risks of ''losing'' vessels from AIS screens when they first enter U.S. territorial waters, especially in busy maritime areas where port security is critical, is a significant factor disfavoring the use of channels other than Channel 87B for AIS in the United States, even if, as MariTEL speculates, foreign vessels would eventually ''become accustomed to switching to the U.S. AIS channels when they approach U.S. waters.''

4. Further, the record is devoid of any party disputing the Commission's determination in the *AIS NPRM* that domestic use of Channels 87B and 88B for AIS would facilitate the speedy and efficient deployment of AIS, allowing the United States to take full advantage of existing AIS standards and infrastructure. Technical standards have been established, and equipment has been built and installed, domestically and internationally, for AIS operation on Channels 87B and 88B. The Commission is concerned that the designation of narrowband duplex channels for domestic AIS use could preclude reliance on those prior standards-setting efforts, and necessitate further technical analysis and changes in equipment design, and possibly even a more extensive AIS shore infrastructure, to accommodate a unique AIS channelization scheme in the United States and the attendant need to switch AIS channels when entering U.S. waters. In addition to impeding AIS deployment in the United States as a general matter, such an approach also could discourage voluntary AIS carriage by, for example, recreational boaters, due to higher equipment costs. Moreover, the Commission believes, under the circumstances presented, that it is reasonable to consider, as part of its public interest analysis, the economic impact of a duplex approach on equipment manufacturers, ship station licensees and other stakeholders in the maritime community who have designed, manufactured, installed or are using (in most cases to comply with a statutory carriage requirement) AIS devices that operate on Channels 87B and 88B on a wideband simplex basis in reliance on the ITU standards. In this connection, the Commission notes that those standards have been in existence for several years, have been adopted for use not only in international waters but in the territorial waters of other nations, and are the only standards that have received any widespread acceptance.

5. Further, AIS operation on wideband channels will provide for effective AIS coverage at greater distances due to improved receiver sensitivity and frequency modulation discrimination capacity. In addition, requiring AIS shore station equipment and Class A AIS ship station equipment to operate in wideband mode will ensure the interoperability of such equipment with Class B devices. Although MariTEL correctly notes the inherent efficiency benefits of duplex channelization, the Commission agrees with NTIA that, under the circumstances presented, authorizing the use of Channel 87B on a simplex basis will, on balance, permit the establishment of more robust and effective AIS tracking capability in U.S. waters.

6. In sum, the Commission believes that AIS is an important tool for combating terrorism and a significant advancement in maritime navigation technology. Based on the record before us, the Commission is persuaded that its promotion and facilitation of AIS deployment will save lives, strengthen the integrity of our borders, protect port operations that are vital to the United States economy, and promote a healthy and secure marine environment. Given the importance of AIS to homeland security and maritime safety, the Commission also believes that, absent compelling reasons, it should adopt rules that will best ensure that AIS is deployed widely, quickly, reliably, and cost-effectively, and in a manner that will maximize its capabilities. On the basis of this record, the Commission believes that this goal can be most readily and best achieved by designating Channel 87B to be used for AIS on a wideband simplex basis. The Commission therefore amends its rules as proposed, and designates Channels 87B and 88B for exclusive AIS use.

7. In addition, the Commission adopts its proposal in the *AIS NPRM* to delete note US223 from the Table of Frequency Allocations if Channels 87B and 88B are designated for exclusive AIS use. Note US223 permits the authorization of maritime public correspondence operations on Channel 88 in specified areas within seventy-five miles of the Canadian border. Most of the commenters addressing this issue agree that it is no longer necessary to retain note US223 once Channel 88B has been designated exclusively for AIS in the maritime VPCSAs, inasmuch as VPCSAs 1, 5 and 7 completely encompass the areas identified in note US223. The Commission is not persuaded by MariTEL's argument that elimination of note US223 is inconsistent with MariTEL's retention of authority to use Channel 88. Under the rules the Commission adopts herein, MariTEL may use only the A side of Channel 88 for public correspondence operations, and it is unnecessary to retain note US223 to authorize such operations since Channel 88A (157.425 MHz) is allocated for non-Federal Government maritime mobile use on a primary basis. The Commission therefore deletes note US223 as proposed. The Commission agrees with MariTEL, however, that it should modify the table in § 80.371(c) of the Commission's rules only to reflect that Channels 87 and 88 may be used for radiotelephony in simplex mode, in keeping with the Commission's proposal in the *AIS NPRM*, rather than completely delete Channels 87 and 88 from the table. The Commission invited comment on the latter option as an alternative to its proposed amendment. MariTEL, the only commenter addressing this precise issue, correctly observes that eliminating Channels 87 and 88 from the table would be inconsistent with the fact that Channel 87A and, subject to the aforementioned limitations, Channel 88A can still be used for VPC service.

8. The Commission continues to believe that the interference impact of wideband simplex AIS on VPC operations can be effectively mitigated through commercially reasonable means. Accordingly, the Commission concludes that there is no need to adopt additional AIS interference abatement requirements. Even if simplex wideband AIS operations pose a greater interference challenge than duplex narrowband AIS operations, the Commission does not believe that extraordinary measures are necessary to overcome it. The record in this proceeding confirms that the use of forward error correction (FEC) techniques with soft decision decoding mitigates interference from AIS. The Commission also continues to believe that VPF Public Coast (VPC) station licensees would be required to employ FEC and interleaving even in the absence of AIS to correct errors due to signal fading. In support of this belief, the Commission notes that FEC and interleaving techniques are commonly used in other services and technologies, such as the Project 25 technology utilized by some public safety licensees. While the degree of error correction in the commercially available radio equipment MariTEL has thus far investigated may not meet its quality-of-service requirements, the technology is nonetheless available, as indicated in the comments.

9. In addition, while the Commission understands the desirability of limiting the amount of adjacent channel interference to VPC stations, it notes that the International Electrotechnical Commission (IEC) AIS emissions mask is in fact more stringent than the emissions mask applicable to other part 80 devices. In addition, the IEC AIS mask in the 25 kHz mode is more stringent than the equivalent part 90 mask. Therefore, since the AIS emission limits already are more stringent than the normally applicable part 80 or part 90 emission limits, the Commission does not believe it necessary to impose additional technical requirements to

further reduce AIS emissions under the circumstances presented.

10. The Commission continues to encourage the Coast Guard and MariTEL, as well as other VPC licensees, to cooperate on identification and implementation of effective interference mitigation measures, but it remains unconvinced that it should condition the use of Channel 87B for AIS on the Coast Guard's assumption of specific interference mitigation obligations. MariTEL propounds a number of such conditions as alternative means of allowing the use of Channel 87B for AIS in a manner that MariTEL deems sufficiently protective of its interests. MariTEL requests, for example, that the Commission require the Coast Guard to negotiate with MariTEL and incumbent licensees regarding interference protection, and to require an agreement among the parties before any rule designating Channel 87B for AIS becomes effective. The Commission thinks these approaches are both unnecessary, given its conclusions regarding the extent and remediability of AIS interference, and problematic. In this regard, the Commission is concerned that mandatory negotiations regarding interference protection would be no more successful than, and would have the same drawbacks as, mandatory negotiations over the designation of channels for AIS. It therefore declines to condition the designation of Channel 87B for AIS on the Coast Guard's successful completion of interference abatement negotiations with MariTEL and other VPC licensees for the same reasons that impelled us to reject another round of negotiations over the AIS channel designation. The Commission also declines to adopt MariTEL's alternative suggestion that any designation of Channel 87B for AIS be conditioned on demonstrating to MariTEL's satisfaction that it will be able to operate free of AIS interference. Following such an approach would give MariTEL the effective ability to veto AIS deployment on Channel 87B and could result in the same delay and uncertainty that would attend further negotiations. Moreover, even if the Commission were to agree with MariTEL's assessment of the interference threat posed by AIS, it still would be reluctant to make actions that would promote homeland security and public safety contingent upon a private entity's approbation.

11. Similarly, the Commission will not accept MariTEL's offer to forgo its objections to the reallocation of Channel 87B for AIS if the Commission adopts regulations that affirmatively require the Coast Guard to cure to MariTEL's satisfaction all interference to its VPC operations caused by the use of AIS devices on Channel 87B. MariTEL has failed to demonstrate that such extraordinary relief is warranted here and would further the public interest without adversely affecting homeland security and maritime safety. Moreover, such a requirement would be extremely difficult to craft and enforce. Most seriously, adoption of this MariTEL proposal raises the specter of shutting down AIS, thus creating a large vulnerability in our national security.

12. The Commission concludes that it would not serve the public interest to adopt the ''Sharing Proposal'' submitted by MariTEL because it appears that MariTEL still views a reexamination and revision of the AIS equipment certification standards as an integral component of the ''Sharing Proposal.'' The Commission believes, however, that it would be counterproductive to reconsider the AIS equipment standards. To do so would not only create problems for international AIS interoperability and coordination, but would also retard, possibly even freeze, AIS deployment efforts in this country, and could also necessitate retrofitting vessels that have already installed AIS equipment meeting the current international and FCC requirements.

13. The Commission affirms its tentative conclusion in the *AIS NPRM* that there is no basis in public policy or equity to compensate MariTEL in conjunction with the designation of Channels 87B and 88B for AIS on a wideband simplex basis. MariTEL contends, as it has consistently throughout this proceeding, that the Commission should require the Coast Guard to compensate it for harmful interference if the Commission adopts its AIS channel designation proposal. MariTEL asserts that failing to take such action would, for the first time, strip the winner of an FCC auction of the right to the spectrum it purchased in that auction, and that such action would be inequitable and contrary to public policy. The Commission disagrees for a number of reasons. Most importantly, the Commission do not believe that wideband simplex AIS operations on Channels 87B and 88B will unreasonably burden MariTEL's use of its licensed VPC spectrum. Even if such wideband simplex AIS operations were to present new challenges to the launch of a data network on the maritime VPCSA channels, the Commission does not believe that those challenges cannot be surmounted, and does not believe they are of such magnitude as to warrant special compensation to maritime VPCSA licensees. As the Commission indicated in the *AIS NPRM*, moreover, licensees who acquire their licenses at auction do not have a vested right to the continuation without change of the rules in effect at the time of the auction. Auction bidders are on notice, based on clear statutory language and judicial precedent, that the Commission retains the power to alter the terms of existing licenses (whether or not acquired through competitive bidding) through rulemaking, should the public interest so warrant.

14. The Commission believes that it would be beneficial and prudent to augment the record on the important question of whether to expand the exclusive use of Channel 87B for AIS beyond the nine maritime VPC service areas (VPCSAs), as initially contemplated, before taking final action on this issue. NTIA's request for a nationwide AIS allocation is now based to a significant degree on the need to protect satellite AIS systems, but NTIA advanced this justification for the first time in its comments to the *AIS NPRM*. As a result, the existing record provides almost no information regarding the technical feasibility, effectiveness or potential benefits of satellite AIS, and no studies or analysis of potential interference to and from satellite AIS. The Commission is not convinced, based on the current record, that it should depart from its earlier determinations limiting the scope of the AIS set-aside. On the other hand, neither does the Commission believe that it can affirm its tentative conclusion in the *AIS NPRM*, that the public interest would not be served by extending AIS use of Channel 87B to inland areas, without further review of this new development. It appears that satellite AIS may significantly expand the range at which vessels may be effectively identified and tracked. Such an expansion of AIS vessel tracking capabilities could promote and enhance maritime domain awareness. Accordingly, the Commission invites comment in a *Further Notice of Proposed Rule Making* on issues pertaining to satellite AIS, and further comment more generally on the geographic scope of the AIS set-aside.

15. The Commission believes, at this juncture, that Channel 87B can continue to be used for AIS on a shared basis with the limited group of site-based incumbent VPC stations in the maritime VPCSAs, but that the channel should ultimately be cleared for exclusive AIS use. The Commission is not persuaded that it is necessary to clear Channel 87B of site-based VPC stations immediately, as requested by NTIA, but neither will it require that AIS operate on a non-

interference basis to such stations, as ShipCom essentially urges (unless the incumbents receive compensation). Although ShipCom contends that it is impossible for site-based VPC operations to co-exist with AIS on Channel 87B, neither ShipCom nor NTIA (nor any other party) has brought to the Commission's attention any present examples of real-world VPC/AIS interference, notwithstanding that AIS has been operating on Channel 87B for several years now. The Commission also believes that ShipCom, like MariTEL, is incorrect in asserting that it is practically impossible to overcome AIS interference, in this case co-channel as well adjacent channel interference. In addition, the Commission is likewise unaware of any actual interference to AIS transmissions from these VPC operations, and it believes that AIS will be able to operate effectively notwithstanding the continued use of Channel 87B for a limited period of time by a very few, highly localized VPC stations.

16. However, the Commission also believes that to ensure the integrity of AIS in the long run, Channel 87B should be cleared of all site-based VPC and private land mobile radio (PLMR) operations over time through the non-renewal of any license authorizing such operation on Channel 87B in a maritime VPCSA. The Commission accordingly adds a new footnote to § 80.373(c)(1)(i) of the rules to provide that no site-based authorization to operate on Channel 87B in a maritime VPCSA will be renewed after this *Report and Order* takes effect. Operation of PLMR stations authorized to use Channel 87B on a secondary basis must cease immediately if it causes harmful interference to AIS that the licensee is unable to remedy.

I. Procedural Matters

A. Paperwork Reduction Act Analysis

17. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose no new or modified reporting or recordkeeping requirements or burdens to the public, including businesses with fewer than 25 employees.

B. Report to Congress

18. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

C. Final Regulatory Flexibility Analysis

19. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rule Making* in this proceeding (*AIS NPRM*). The Commission sought written public comment on the proposals in the *AIS NPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Report and Order

20. The rules adopted in the *Report and Order* are intended to identify spectrum to be used for maritime Automatic Identification Systems (AIS) in the United States and its territorial waters. AIS is an important tool for enhancing maritime safety and homeland security, and the Commission had been concerned that certain developments in recent years, such as the termination of the Memorandum of Agreement between the U.S. Coast Guard and MariTEL, Inc. regarding the set-aside of channels for AIS, and the various petitions and pleadings filed by NTIA and MariTEL following that termination, may have created uncertainty in the maritime community regarding the very high frequency (VHF) channels to be used for AIS, and that this in turn could impede efforts to expedite the broad deployment of AIS domestically. In the *Report and Order,* we designate VHF maritime Channels 87B and 88B for AIS use domestically, in keeping with the international allocation of those channels for AIS, because we believe the use of those channels will best ensure that the United States can maximize the maritime safety and homeland security benefits of AIS. The use of VHF maritime Channels 87B and 88B for domestic AIS use will, *inter alia,* permit U.S. participation in a seamless global AIS network, avoid the problems that would inhere in requiring vessels to switch AIS channels when transiting an AIS ''fence'' between international and U.S. territorial waters, facilitate speedy AIS deployment using existing technical standards and infrastructure, and provide for AIS coverage at greater distances than would otherwise be possible.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

21. No comments were submitted specifically in response to the IRFA. However, some commenters, including two VHF Public Coast (VPC) station licensees, MariTEL, Inc. (MariTEL) and ShipCom LLC (ShipCom), contend that the interference impact of wideband simplex AIS operations on Channels 87B and 88B would be of such magnitude as to effectively preclude VPC licensees from being able to make commercially reasonable use of their licensed spectrum. As discussed in detail in Section E of this FRFA, we have considered the potential economic impact on small entities of these rules, and we have considered alternatives that would reduce the potential economic impact on small entities of the rules enacted herein, regardless of whether the potential economic impact was discussed in any comments.

Description and Estimate of the Number of Small Entities to Which Rules Will Apply

22. 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: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

23. Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Wireless Telecommunications,'' which is 1,500 or fewer employees. Between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast (VPC) licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a ''small'' business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed fifteen million dollars. In addition, a ''very small'' business is one that,

together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed three million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as ''small'' businesses under the above special small business size standards.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

24. There are no projected reporting, recordkeeping or other compliance requirements. However, some commenters contend that the *Report and Order* may have a significant economic impact on VPC licensees because of the potential interference impact on their operations of designating VHF maritime Channels 87B and 88B for exclusive AIS use on a wideband simplex basis within the nine maritime VPC service areas (VPCSAs).

Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

25. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

26. In the IRFA of the *AIS NPRM,* the Commission described, and sought comment on, possible alternatives to the Commission's proposal for the designation of Channels 87B and 88B for AIS that might minimize the economic impact on small entities. First, the Commission asked commenters to consider the interference impact on MariTEL, licensee of the nine maritime VPC service areas, or on any incumbent site-based VPC licensees or any Economic Area (EA) VPC licensees, of the proposed designation of Channels 87B and 88B for AIS exclusively. The Commission noted that it had tentatively concluded that the proposed designation of Channels 87B and 88B for AIS should not have an adverse effect on MariTEL's use of its VPC channels to a materially greater extent, if at all, than would designation of two narrowband offset channel pairs of the Commission's choosing from the 156–162 MHz VHF maritime band. The Commission noted that it had requested comment on this tentative conclusion, and had also asked commenters to consider if incumbent site-based VPC operations can co-exist on a non-interference basis with AIS and, if not, whether the Commission should require that these operations be migrated to other spectrum and/or that the licensees be compensated in some way.

27. Commenters were requested to identify potential means of minimizing or eliminating any adverse economic impact on any small entities, particularly VPC licensees that qualify as small entities, if Channels 87B and 88B are designated for AIS use. The Commission suggested that such means might include, for example, exemptions, grandfathering protection, or geographic limitations on the use of Channels 87B and 88B for AIS. The Commission also stated, *inter alia*, that commenters could recommend that the Commission designate channels other than Channels 87B and 88B for AIS use in the United States as a means of minimizing any adverse economic impact on these licensees. The Commission noted, however, that mandating use of channels other than Channels 87B and 88B for AIS use in the United States could have an adverse economic impact on vessel operators and radio equipment manufacturers that qualify as small entities by, for example, increasing the cost of AIS equipment, causing premature obsolescence of AIS equipment already installed on vessels, or leaving manufacturers with stranded inventory. Accordingly, commenting parties, and particularly commenting parties who favor adopting an alternative to the Commission's proposal, were asked to address the potential economic impact of that alternative on small entities. In addition, the Commission specifically invited site-based incumbent licensees that operate within VHF Public Coast Service Areas (VPCSAs) 1–9 on Channel 87B or Channel 88B to suggest alternatives or additions to the Commission's proposal that would minimize any significant economic impact on them. Finally, the Commission also noted that there are incumbent licensees operating on the specified channels in inland areas. The Commission said it did not anticipate any significant adverse effect on any such licensee due to the geographic limitations of its proposal, *i.e.*, its tentative determination to limit the AIS set-aside to areas near major navigable waterways. Commenters who believed differently were asked to describe the expected adverse economic impact on incumbent inland licensees operating on these or adjacent channels, and to provide suggested methods of minimizing any such impact. The Commission noted that, although it was proposing only to designate Channels 87B and 88B for AIS in the nine maritime VPCSAs, it was not foreclosing the possibility of designating those channels for AIS on a nationwide basis, and it therefore requested inland licensees and other interested parties to address the possible economic impact on small entities if the Commission were to designate Channels 87B and 88B for AIS in inland areas as well as the nine maritime VPCSAs.

28. Although we received no comments specifically addressed to the IRFA for the *AIS NPRM,* we have considered all comments to the *AIS NPRM* addressing the impact of any proposed change on small entities and all suggestions for alternative measures that would have a less significant impact on small entities. In particular, we have addressed comments regarding the impact on VPC licensees of designating Channels 87B and 88B for AIS on a wideband simplex basis. We have considered the possibility of designating two narrowband duplex channel pairs for AIS in lieu of Channel 87B, because commenters argued that VPC licensees would not incur as great a level of interference from narrowband duplex AIS as they would from wideband simplex AIS. We have determined not to designate narrowband duplex channels for AIS in lieu of Channel 87B because doing so would compromise the effectiveness of AIS as a tool in the service of homeland security and maritime safety. Because both international bodies and other nations operate AIS on a wideband simplex basis on Channels 87B and 88B, the designation of narrowband duplex channels for AIS in the United States would preclude creation of a seamless global AIS network; limit and complicate the ability of the Coast Guard to coordinate with maritime safety organizations in other nations; result in AIS coverage gaps when vessels transit an AIS ''fence'' between international and U.S. territorial waters; delay domestic AIS deployment efforts; discourage voluntary carriage of AIS equipment; and reduce the distances at which vessels may be tracked. In addition, the designation of narrowband duplex channels for AIS would likely

harm more small entities than it would benefit, because it could leave small manufacturers of marine radio equipment with stranded inventory, and require small entities that own or operate vessels to refit those vessels with new AIS equipment.

29. We also have considered a proposal by MariTEL that would permit MariTEL to share use of Channel 87B in what MariTEL deems a commercially advantageous manner. We have rejected this MariTEL *Sharing Proposal* for two reasons. First, it includes as an integral component the Commission's agreement to revisit and revise the rules governing certification of AIS equipment. We have concluded that it would disserve the public interest to adopt AIS equipment certification requirements that diverge from the international requirements. An attempt to devise new, U.S.-specific AIS equipment standards at this juncture would engender many of the same problems that would attend designation of AIS channels other than Channels 87B and 88B for use in the United States. Second, the *Sharing Proposal* contemplates the Commission's imposition and enforcement of restrictions on the ability of entities other than MariTEL to make commercial use of AIS data. We have concluded that, even if the Commission had authority to impose and enforce such restrictions, its exercise would be administratively burdensome.

30. In making all of the above policy determinations, we have weighed in the balance the interference impact of wideband simplex AIS on MariTEL and the other VPC licensees. We have concluded that whatever harmful interference may be caused to VPC operations by wideband simplex AIS transmissions, it can be effectively mitigated through commercially reasonable means, such as forward error correction (FEC) coding, and block interleaving. Based on that determination, as well as a determination that there is no legal theory through which the Commission could provide compensation to VPC licensees in any event, the Commission has declined to provide for compensation to any VPC licensee based on predictions of the interference impact of AIS.

31. As a measure to minimize the potential economic impact of its decision herein on site-based incumbent VPC licensees, some of which may be small entities, we have determined not to require such licensees to immediately terminate use of Channel 87B in order to clear the spectrum for AIS. Instead, we are providing that such licensees may continue to operate on Channel 87B for the remainder of their current license terms, but also that no such license will be renewed for operation on Channel 87B. This provides what is in effect grandfathering protection for site-based incumbent licensees for a period of several years, with the precise termination date based on their current authorizations. In reaching this determination, we have considered that site-based incumbent VPC licensees, unlike maritime VPCSA licensees, were not subject to any pre-existing requirement to set aside spectrum for AIS.

32. Finally, we have determined to augment the record with additional comments to better inform a decision as to whether the designation of Channel 87B for AIS should be nationwide in scope or just limited to the nine maritime VPCSAs. We discuss this matter in the *Further Notice of Proposed Rule Making* (*Further Notice*) in this proceeding and the accompanying Initial Regulatory Flexibility Analysis of the *Further Notice, infra*.

D. Report to Congress

33. The Commission will send a copy of this *Report and Order* in WT Docket No. 04–344, including the Final Regulatory Flexibility Analysis, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA. A copy of the *Report and Order* and the Final Regulatory Flexibility Analysis (or summaries thereof) will also be published in the **Federal Register**.

List of Subjects in 47 CFR Parts 2 and 80

Communications, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 80 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

■ a. Revise page 21.

■ b. In the list of United States (US) Notes remove footnote US223 and add footnote US399.

The revisions and additions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

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Table of Frequency Allocations			157.0375-267 MHz (VHF)		Page 21
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
156.8375-174 FIXED MOBILE except aeronautical mobile	156.8375-174 FIXED MOBILE		(See previous page)		
			157.0375-157.1875 MARITIME MOBILE US214 5.226 US266 G109	157.0375-157.1875 5.226 US214 US266	Maritime (80) Private Land Mobile (90)
			157.1875-161.575	157.1875-157.45 LAND MOBILE US266 MARITIME MOBILE 5.226 NG111	
				157.45-161.575 FIXED LAND MOBILE NG28 NG111 5.226 NG6 NG70 NG112 NG124 NG148 NG155	Public Mobile (22) Auxiliary Broadcasting (74) Maritime (80) Private Land Mobile (90)
			161.575-161.625 5.226 US77	161.575-161.625 MARITIME MOBILE US77 5.226 NG6 NG17	Public Mobile (22) Maritime (80)
			161.625-161.775	161.625-161.775 LAND MOBILE NG6 5.226	Public Mobile (22) Auxiliary Broadcasting (74)
			161.775-162.0125 5.226 US266 US399	161.775-162.0125 LAND MOBILE US266 NG6 MARITIME MOBILE 5.226 US399	Public Mobile (22) Maritime (80) Private Land Mobile (90)
			162.0125-173.2 FIXED US13 MOBILE 5.226 US8 US11 US216 US300 US312 US399 G5	162.0125-173.2 5.226 US8 US11 US13 US216 US300 US312 US399	Auxiliary Broadcasting (74) Maritime (80) Private Land Mobile (90)
			173.2-173.4	173.2-173.4 FIXED Land mobile	Private Land Mobile (90)
			173.4-174 FIXED MOBILE G5	173.4-174	
5.226 5.229	5.226 5.230 5.231 5.232				

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UNITED STATES (US) NOTES

* * * * *

US399 Except as indicated below, the frequency bands 161.9625–161.9875 MHz (AIS 1 with its center frequency at 161.975 MHz) and 162.0125–162.0375 MHz (AIS 2 with its center frequency at 162.025 MHz) are allocated to the maritime mobile service on a primary basis for Federal Government and non-Federal Government use, and shall be used exclusively for Automatic Identification Systems. However, in VHF Public Coast Station Areas (VPCSAs) 1–9, site-based VHF Public Coast stations licensed prior to [effective date of this order] may continue to operate on a co-primary basis in the frequency band 161.9625–161.9875 MHz until expiration of the license term for licenses in active status as of [effective date of this order], and in VPCSAs 10–42, the band 161.9625–161.9875 MHz is allocated to the maritime mobile service on a primary basis for exclusive non-Federal Government use. *See* 47 CFR 80.371(c)(1)(ii) for the definitions of VPCSAs.

* * * * *

PART 80—STATIONS IN THE MARITIME SERVICES

■ 3. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

■ 4. Section 80.5 is amended by adding a definition for ''Automatic Identification Systems (AIS)'', in alphabetical order, to read as follows:

§ 80.5 Definitions.

* * * * *

Automatic Identification Systems (AIS). A maritime navigation safety communications system standardized by the International Telecommunication Union (ITU) and adopted by the International Maritime Organization (IMO) that provides vessel information, including the vessel's identity, type, position, course, speed, navigational status and other safety-related information automatically to appropriately equipped shore stations, other ships, and aircraft; receives automatically such information from similarly fitted ships; monitors and tracks ships; and exchanges data with shore-based facilities.

* * * * *

■ 5. Section 80.13 is amended by revising paragraph (c) to read as follows:

§ 80.13 Station license required.

* * * * *

(c) A ship station is licensed by rule and does not need an individual license issued by the FCC if the ship station is not subject to the radio equipment carriage requirements of any statute, treaty or agreement to which the United States is signatory, the ship station does not travel to foreign ports, and the ship station does not make international communications. A ship station licensed by rule is authorized to transmit radio signals using a marine radio operating in the 156–162 MHz band, any type of AIS, any type of EPIRB, and any type of radar installation. All other transmissions must be authorized under a ship station license. Even though an individual license is not required, a ship station licensed by rule must be operated in accordance with all applicable operating requirements, procedures, and technical specifications found in this part.

■ 6. Section 80.371 is amended by revising paragraphs (c)(1)(i), (c)(2) and (c)(3) to read as follows:

§ 80.371 Public correspondence frequencies.

* * * * *

(c) * * *

(1)(i) The frequency pairs listed in the following table are available for assignment to public coast stations for public correspondence communications with ship stations and units on land.

WORKING CARRIER FREQUENCY PAIRS IN THE 156–162 MHZ BAND [1]

Channel designator	Carrier frequency (MHz)	
	Ship transmit	Coast transmit
24	157.200	161.800
84	157.225	161.825
25	157.250	161.850
85 [2]	157.275	161.875
26	157.300	161.900
86	157.325	161.925
27	157.350	161.950
87 [4 5]	157.375	161.975
28	157.400	162.000
88 [3]	157.425	162.025

[1] For special assignment of frequencies in this band in certain areas of Washington State, the Great Lakes and the east coast of the United States pursuant to arrangements between the United States and Canada, see subpart B of this part.

[2] The frequency pair 157.275/161.875 MHz is available on a primary basis to ship and public coast stations. In Alaska it is also available on a secondary basis to private mobile repeater stations.

[3] Within that portion of VHF Public Coast Station Areas (VPCSAs) 1 through 9 listed in the table in paragraph (c)(1)(ii) of this section within 120 km (75 miles) of the United States/Canada border, in the area of the Great Lakes, the Saint Lawrence Seaway, and the Puget Sound and the Strait of Juan de Fuca and its approaches, Maritime VHF Channel 88A (157.425 MHz) is available for use for public correspondence communications, subject to prior coordination with Canada. Maritime VHF Channel 88B (162.025 MHz) is available only for Automatic Identification System communications. One hundred twenty kilometers (75 miles) from the United States/Canada border 157.425 MHz is available for intership and commercial communications. Outside the Puget Sound area and its approaches and the Great Lakes, 157.425 MHz is available for communications between commercial fishing vessels and associated aircraft while engaged in commercial fishing activities.

[4] Within VHF Public Coast Station Areas (VPCSAs) 1 through 9 listed in the table in paragraph (c)(1)(ii) of this section, Maritime VHF Channel 87B (161.975 MHz) may be used only for Automatic Identification System communications.

[5] No license authorizing a site-based VHF Public Coast Station or a Private Land Mobile Radio Station to operate on maritime VHF Channel 87B (161.975 MHz) in one of the nine maritime VHF Public Coast Service Areas (VPCSAs) listed in the table in paragraph (c)(1)(ii) will be renewed unless the license is or has been modified to remove Channel 87B as an authorized frequency.

* * * * *

(2) Any recovered channel pairs will revert automatically to the holder of the VPCSA license within which such channels are included, except the channel pairs listed in the table in paragraph (c)(1)(i) of this section. Those channel pairs, and any channel pairs recovered where there is no VPCSA licensee, will be retained by the Commission for future licensing.

(3) VPCSA licensees may not operate on Channel 228B (162.0125 MHz), which is available for use in the Coast Guard's Ports and Waterways Safety System (PAWSS). In addition, VPCSA licensees in VPCSAs 1–9 may not operate on Channel AIS 1 (161.975 MHz) or Channel AIS 2 (162.025 MHz), which are designated in those areas exclusively for Automatic Identification Systems (AIS), except to transmit and receive AIS communications to the same extent, and subject to the same limitations, as other shore stations participating in AIS.

* * * * *

■ 7. Section 80.373 is amended by revising paragraph (j) to read as follows.

§ 80.373 Private communications frequencies.

* * * * *

(j) *Frequencies for portable ship stations.* VHF frequencies authorized for stations authorized carrier frequencies in the 156.275 MHz to 157.450 MHz and 161.575 MHz to 162.025 MHz bands

may also be authorized as marine utility stations. Marine-utility stations on shore must not cause interference to any Automatic Identification System, VHF or coast station, VHF or UHF land mobile base station, or U.S. Government station.

■ 8. Section 80.393 is added to subpart H to read as follows:

§ 80.393 Frequencies for AIS stations.

Automatic Identification Systems (AIS) is a maritime broadcast service. The simplex channels at 161.975 MHz (AIS 1) and 162.025 MHz (AIS 2), each with a 25 kHz bandwidth, may be authorized in VHF Public Coast Station Areas 1–9 for AIS, and the frequency 162.025 MHz (AIS 2) also may be authorized in VHF Public Coast Station Areas 10–42 for AIS. The VHF Public Coast Station Areas are codified at 47 CFR 80.371(c)(1)(ii). In accordance with the Maritime Transportation Security Act, the United States Coast Guard regulates AIS carriage requirements for non-Federal Government ships. These requirements are codified at 33 CFR 164.46, 401.20.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 80

[WT Docket No. 04–344; PR Docket No. 92–257; FCC 06–108]

Maritime Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission denies a petition for reconsideration of the Automatic Identification Systems (AIS) equipment certification requirements for ship station equipment that were adopted in the *Sixth Report and Order* in PR Docket No. 92–257. The Commission concludes that there is no compelling justification for adopting domestic AIS equipment certification standards that diverge from the international standards. In support of this conclusion, the Commission notes that any such departure from the international standards would delay AIS deployment in the United States, discourage voluntary AIS carriage, and create other problems, including difficulties in AIS coordination with maritime authorities of other nations.

DATES: Effective October 12, 2006.

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 *Fourth Memorandum Opinion and Order*, FCC 06–108, adopted on July 20, 2006, and released on July 24, 2006. 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, Best Copy and Printing, Inc., 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 sending an e-mail to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

1. In the *Sixth Report and Order* in PR Docket No. 92–257, the Commission adopted rules providing for the certification of AIS equipment that complies with the international standards for such equipment. In a petition for reconsideration of that decision, MariTEL, Inc. (MariTEL) contended that the adopted AIS equipment certification requirements will have a devastating impact on MariTEL because the international AIS emission mask is not as rigorous as the otherwise applicable U.S. emission mask, and, more importantly, the procedures for measuring compliance with the international mask are flawed so that equipment approved as compliant may not in fact comply even with the more lenient emission mask. MariTEL further argued that, in adopting AIS equipment certification requirements that incorporate by reference the international standards for such equipment, the Commission effectively ceded its authority over domestic spectrum use to international authorities, abrogating its obligation to exercise independent judgment to determine whether a particular regulation would serve the domestic public interest.

2. The Commission agrees with MariTEL that the Commission should not incorporate international standards in its own rules automatically, without considering whether, on balance, those international standards would serve the domestic public interest. The Commission believes, however, based on the record, that it serves the public interest for the Commission to establish AIS equipment certification standards that conform to the international standards. The adoption of U.S.-specific standards for AIS equipment could preclude the development of a seamless global AIS network and complicate international AIS coordination. This would reduce the effectiveness of AIS as a tool against terrorism. It would also reduce the value of AIS for maritime safety, especially if U.S.-certified equipment were not interoperable with AIS equipment approved under the international standards. It could also lead to the premature obsolescence of installed AIS devices meeting the international standards, and result in stranded inventory for AIS equipment manufacturers who have relied on the international standards in designing AIS devices. In addition, adoption of a separate standard could increase the costs to U.S. vessels of complying with the domestic AIS carriage requirement (and potentially also increase AIS costs for foreign-flagged vessels transiting U.S. waters) by making U.S.-approved AIS equipment more expensive and/or necessitating carriage of two different AIS devices. Adding to the cost of AIS equipment would also create a disincentive to voluntary AIS carriage, further undermining the effectiveness of AIS. Furthermore, the current record in this proceeding does not provide a basis for immediate adoption of an alternative AIS equipment standard. Therefore, if the Commission were to grant MariTEL's petition for reconsideration, it would appear that the Commission would also have to request further comment to determine precisely what standard should be adopted in part 80 in lieu of incorporating the international standards by reference. This would engender considerable uncertainty in both the maritime and the manufacturing communities, internationally as well as domestically, for a significant period of additional time. All of these factors would serve to delay and limit effective, efficient and expeditious AIS implementation in the United States, which would clearly be contrary to the public interest. On the other hand, continued reliance on the international standards in certifying AIS equipment under part 80 would permit domestic AIS deployment to proceed unabated, provide certainty to the affected entities, encourage voluntary AIS carriage, minimize the costs of AIS implementation (for the United States Government as well as private sector entities), and permit the development of a seamless global AIS network in which