

FCC MAIL SECTION

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Before the  
Federal Communications Commission  
Washington, D.C. 20554DISPATCHED BY  
PR Docket No. 92-154 ✓

In the Matter of

Amendment of the Amateur Service  
Rules to Include Novice Class  
Operator License Examinations  
in the Volunteer-Examiner  
Coordinator Examination System.

## NOTICE OF PROPOSED RULE MAKING

Adopted: July 13, 1992;

Released: July 23, 1992

Comments Due: October 9, 1992

Reply Comments Due: November 9, 1992

By the Commission:

## I. INTRODUCTION

1. This *Notice of Proposed Rule Making (Notice)* proposes to amend the amateur service rules to include the responsibility for the preparation and administration of Novice Class operator license examinations under the volunteer-examiner coordinator (VEC) system. This proposal is intended to simplify and standardize the examination process for amateur service examinations.

## II. BACKGROUND

2. There is a five-tier operator license structure in the amateur service. The operator license classes are, in ascending order, Novice, Technician, General, Advanced, and Amateur Extra. All operator license examinations, except for the Novice Class, are administered in the VEC system.<sup>1</sup> That system has some 30,000 trained and accredited volunteer examiners (VEs) closely coordinated by 18 VECs.<sup>2</sup> Each examination for the Novice Class operator license is administered at an *ad hoc* session by

two amateur operators selected by the examinee.<sup>3</sup> Although a person may enter the amateur service at any of the five classes of operator license, before April of 1991, most newcomers elected to enter at the Novice Class, the lowest class of amateur service license. The deletion of the telegraphy examination as a requirement for the Technician Class license examination,<sup>4</sup> however, now makes it the entry level of choice.<sup>5</sup> The W5YI-VEC and The American Radio Relay League, Inc. (ARRL), recommended that, in the interest of efficiency, Novice examinations be included in the VEC system. The ARRL, in addition to its membership and publishing activities, also, in a separate function, is a VEC. The ARRL/VEC and W5YI-VEC are two of the most active VECs.

## III. DISCUSSION

3. Our experience with the VEC system and with the current Novice examination system indicates that the VEC system is the superior system. The informal *ad hoc* Novice system is inefficient and susceptible to various irregularities. Errors and discrepancies are far less frequent in the VEC system.<sup>6</sup> Moreover, the data provided by the Novice system are not complete.<sup>7</sup> The data kept by the VECs provide a timely overview of the examination process. Such data are also useful to gauge the effectiveness of the examination procedures. By including the Novice examinations in the VEC system, we can simplify license application Form 610 by eliminating the separate certifications by VEs administering Novice examinations. In addition, one standardized system would avoid the confusion that now exists because of the two different procedures that are used in the administration of amateur service examinations. The Novice examination consists of a telegraphy examination and a written examination. These two examination elements are already being administered in the VEC system for other classes of operator licenses, because applicants for higher class licenses must pass the examination elements for the lower class licenses. Further, because of the safeguards employed under the VEC system, the potential for obtaining an amateur service license by fraudulent means would be minimized.

4. We propose to include the responsibility for the preparation and administration of Novice Class operator license examinations under the VEC system with the same conditions that apply to the four higher classes of license. Pursuant to the proposal, all amateur operator license examinations would be administered in accordance with the rules and procedures developed for the VEC system. These rules and procedures include requiring each VE to be accredited by a VEC, three VEs for the administration

<sup>1</sup> In calendar year 1991, the VEC system administered 172,061 examination elements to 103,251 persons at 8,118 sessions.

<sup>2</sup> See *FACT SHEET*, Number 204, September, 1991, for a listing of amateur service VECs.

<sup>3</sup> Each VE who administers a Novice Class examination must hold a current FCC-issued Amateur Extra, Advanced, or General Class operator license. See Section 97.513(a) of the Commission's Rules, 47 C.F.R. § 97.513(a). Nearly 290,000 persons hold such classes of license.

<sup>4</sup> See *Report and Order* in PR Docket No. 90-55, adopted December 13, 1990, 5 FCC Rcd 7631 (1990).

<sup>5</sup> In calendar year 1990, for example, 88 percent of the applicants for new amateur service licenses entered as Novices, 10 percent entered as Technicians, and 2 percent entered at higher

grade levels. In January of 1992, however, only 16.3 percent of the 4,030 applicants for new licenses were Novices, while 82.3 percent of those applicants came into the amateur service as Technicians, and 1.4 percent entered at higher grades.

<sup>6</sup> In calendar year 1991, the number of errors on application forms filed through the VEC system was a very low 0.8 percent. For the same period, the number of errors on Novice applications was 9.4%.

<sup>7</sup> In calendar year 1990, there were 24,398 successful examinations administered for a Novice Class license. In calendar year 1991, there were 17,163 successful Novice examinations. Unlike the VEC system where pass and fail records are closely monitored, there are no statistics available on Novice examination failures.

of an examination, coordination by a VEC of each examination session, and issuance of a Certificate of Successful Completion (CSCE) to every examinee who scores a passing grade on an examination element. The VEC system rules also allow VEs and VECs to accept a small reimbursement for their out-of-pocket costs incurred in preparing, processing, administering, or coordinating an amateur operator examination. The maximum reimbursement currently permitted for coordinating the four higher class operator examinations is \$5.44. The VECs and VEs are not required to accept reimbursement, and, in fact, some of the VECs and VEs currently are not reimbursed for their out-of-pocket costs.<sup>8</sup>

5. We believe that it is in the public interest to include the responsibility for the preparation and administration of Novice Class operator examinations under the VEC system. It has demonstrated both its efficiency and its integrity. We conclude that Novice Class amateur operator examinations would benefit from those same two virtues. Further, the proposal, as outlined above, would simplify application procedures and result in no cost to the Commission. We invite all interested parties to comment on the proposed rules.

#### IV. PROCEDURAL MATTERS

##### *Ex Parte* Rules-Non-Restricted Proceeding

6. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206(a).

##### Regulatory Flexibility Act

7. We certify that the Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because, if the proposed rule amendments are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. The amateur stations of Novice Class operators which are the subject matter of this proceeding would not be authorized to transmit any communications the purpose of which is to facilitate the business or commercial affairs of any party. See 47 C.F.R. § 97.113(a). The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 605(b) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601-612 (1980).

<sup>8</sup> Public Law No. 98-214, approved December 8, 1983, permitted volunteers to be reimbursed for out-of-pocket costs incurred in preparing, processing, administering, or coordinating examinations for amateur station operator licenses. See Section 4(f)(4)(J) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(f)(4)(J). The language of the statute is broad in that it applies to all classes of operator license. Senator Goldwater, however, in discussing the legislation before the Senate, stated that the reimbursement fee should not apply to Novice examinations. See 129 Cong. Rec. S15376 (daily ed. Nov. 3, 1983). The statutory language contains no such exception. Because the statute is clear on its face, there is no need to resort to the legislative history. *American Civil Liberties Union v. FCC*, 823 F.2d 1554, 1568 (D.C. Cir. 1987). While we have considered

##### Comment Dates

8. Authority for issuance of this Notice is contained in Sections 4(f)(4)(A), (B), and (J), 4(i), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(f)(4)(A), (B) and (J), 154(i), and 303(r). Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before **October 9, 1992**, and reply comments on or before **November 9, 1992**. To file formally in this proceeding, you must file an original and four copies of all comments, and reply comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

9. For further information, call Maurice J. DePont, Private Radio Bureau, (202) 632-4964.

#### FEDERAL COMMUNICATIONS COMMISSION

  
Donna R. Searcy  
Secretary

#### APPENDIX

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 97 continues to read as follows:

**Authority citation: 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. §§ 151-155, 301, 609, unless otherwise noted.**

2. Section 97.507(c) is revised, paragraph (d) is removed, and paragraph (e) is redesignated as paragraph (d) to read as follows:

##### § 97.507 Preparing an examination.

Senator Goldwater's comment, it does not rise to the level of a statutory requirement binding on us. *Telecommunications Research and Action Center v. FCC*, 836 F.2d 1349, 1362 (D.C. Cir. 1988). Moreover, the structure of the amateur service has changed considerably since those remarks were made. Most noteworthy is the introduction of the codeless Technician Class operator license. In addition, Novice Class operators now enjoy additional privileges in the 10 meter band, as well as extensive VHF and UHF privileges, that were not available in 1983. Within the limits of the law, and in accordance with prudent administration, we are constrained to adapt our rules to accommodate situational changes. *American Trucking Assn's v. Aichison, T. and S.F. Ry.* 387 U.S. 397, 416 (1967). In this matter, we are fulfilling that obligation.

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(c) Each telegraphy message and each written question set administered to an examinee for an amateur operator license must be prepared, or obtained from a supplier, by the administering VEs according to instructions from the coordinating VEC.

**§ 97.527 Reimbursement for expenses.**

(a) VEs and VECs may be reimbursed by examinees for out-of-pocket expenses incurred in preparing, processing, administering, or coordinating an examination for an amateur operator license.

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3. Section 97.511 is revised in its entirety to read as follows:

**§ 97.511 Amateur operator license examination.**

(a) Each session where an examination for an amateur operator license is administered must be coordinated by a VEC. Each administering VE must be accredited by the coordinating VEC.

(b) Each examination must be administered by 3 VEs, each of whom must hold an FCC-issued amateur operator license of the class specified below:

(1) For a Novice Class operator license examination, the administering VEs must hold Amateur Extra, Advanced, or General Class operator licenses;

(2) For a Technician Class operator license examination, the administering VEs must hold Amateur Extra or Advanced Class operator licenses;

(3) For a General, Advanced, or Amateur Extra Class operator license examination, the administering VEs must hold Amateur Extra Class operator licenses.

(c) The administering VEs must make a public announcement before administering an examination for an amateur operator license. The number of candidates at any examination may be limited.

(d) The administering VEs must issue a CSCE to an examinee who scores a passing grade on an examination element.

(e) Within 10 days of the administration of a successful examination for an amateur operator license, the administering VEs must submit the application to the coordinating VEC. If telegraphy element credit is claimed under Section 97.505(a)(5), the physician's certification and the patient's release on the license application, Form 610, must be completed.

4. Section 97.513 is removed and reserved.

5. Section 97.521(c) is revised to read as follows:

**§ 97.521 VEC qualifications.**

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(c) Agree to coordinate examinations for any class of amateur operator license;

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6. Section 97.527 is amended by revising paragraph (a), by removing paragraph (c), and by redesignating paragraphs (d) through (g) as paragraphs (c) through (f) to read as follows: