

FCC MAIL SECTION

Before the  
Federal Communications Commission  
Washington, D.C. 20554  
Aug 6 5 12 PM '92

DISPATCHED BY  
PR Docket No. 92-167 ✓

FCC MAIL SECTION

licenses issued by their own countries, be issued one-year permits to operate their amateur stations while they are in the United States.<sup>3</sup>

3. Any visiting foreign amateur operators are ineligible for a reciprocal permit, however, because there is no reciprocal agreement between our government and theirs. Their only alternatives are to pass the examinations for a Commission-issued license before visiting the United States or during their stay here.

In the Matter of

Amendment of the Amateur Radio Service  
Rules to Provide a Special Temporary  
Licensing Procedure for Visiting  
Foreign Amateur Operators.

**NOTICE OF PROPOSED RULE MAKING**

Adopted: July 24, 1992;

Released: August 6, 1992

Comments Due: October 26, 1992

Reply Comments Due: November 30, 1992

By the Commission: Commissioner Quello concurring  
and issuing a statement.

**I. INTRODUCTION**

1. In this *Notice of Proposed Rule Making (Notice)*, we propose, on our own motion, to amend the amateur service rules to provide a convenient licensing procedure for foreign amateur operators visiting in our country for a short time, such as vacationers, convention delegates, meeting attendees, and tourists, who wish to operate their amateur stations while they are here. This proposal is intended to extend the amateur operator's unique ability to enhance international goodwill.<sup>1</sup>

**II. BACKGROUND**

2. Currently, there are two ways that a foreign amateur operator can be authorized to operate an amateur station in the United States. Any person, including non-citizens, who passes the necessary examinations can receive a ten-year term amateur service license. This method is generally used by non-citizens who reside permanently in the United States or who are here for a lengthy stay. Alternatively, citizens of the 76 countries whose governments have signed reciprocal operating agreements with the United States<sup>2</sup> may, on the basis of the amateur service

**III. PROPOSAL**

4. The objective of this rule making proposal is to devise a convenient and efficient procedure that will make it possible for a foreign amateur operator on a brief visit to the United States to operate an amateur station. We believe that a single, consecutive 60-day period of authorization will meet the time requirements typically needed by most such visitors. In order to make such operation possible, we need to (1) confirm that the person currently holds an amateur service license from the country of citizenship, (2) determine the extent of the operating privileges granted by the license, (3) make certain that the person is qualified to perform the duties of an amateur operator in the United States and that authorization is in the public interest, (4) provide the foreign amateur operator with a document attesting to the fact of qualification, and (5) record pertinent data so that we can contact the person, if necessary. The entire process would be designated as the licensing of a temporary visiting foreign amateur operator. Because of the brief period involved, the licensing procedure would have to be readily available throughout the country and would have to be completed quickly.

5. Currently, all amateur operator license examinations are administered in the private sector either in the volunteer-examiner coordinator (VEC) system or, for Novice Class operator examinations, by two volunteer examiners (VEs). Although there are no limitations on where the examinations can be administered, (VEs) may not be available in many foreign countries.<sup>4</sup> The VECs coordinate the efforts of the VEs in preparing, administering, and grading examinations. We believe that the most efficient means of authorizing operation by foreign visitors is found in the VEC system. In that system, thousands of examinations are given annually by VEs under the guidance of the VECs. Using the VEC system would make it possible to give foreign visitors examinations in a great many places without delay.<sup>5</sup> Moreover, the highly-effective procedures and methods of the VEC system can be used for licensing the temporary visiting foreign amateur operators.

6. *Licensing qualifications.* We must find that the person is qualified to perform properly the duties of an amateur operator in the United States and that authorization is in

<sup>1</sup> See Section 97.1(e) of the Commission's Rules, 47 C.F.R. § 97.1(e).

<sup>2</sup> See *Public Notice*, Amateur Service Reciprocal Operating Arrangements, April 21, 1992.

<sup>3</sup> The statutory basis for reciprocal licensing is contained in Sections 303(1)(3) and 310(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 303(1)(3) and 310(c). Additionally, Canadian amateur operators may operate their stations in the United States under a bilateral agreement signed February 8, 1951. That agreement entered into force May 15, 1952. See

TIAS 2508.

<sup>4</sup> Three VEs accredited by a VEC are required to administer the examination for a Technician, General, Advanced, or Amateur Extra Class operator license. Two unaccredited VEs may administer the examination for a Novice Class operator license. See Sections 97.511 and 97.513, 47 C.F.R. §§ 97.511 and 97.513.

<sup>5</sup> There are 18 VECs and some 20,000-30,000 accredited VEs in the United States and elsewhere. They prepare and administer well over 100,000 examinations annually to 65,000-75,000 persons.

the public interest.<sup>6</sup> Under the proposed procedure, we would consider the possession of the foreign amateur service license as proof of qualification in eight of the nine operational and technical topics contained in every written examination.<sup>7</sup> What is not covered by the foreign license are our rules for the amateur service. There is no basis for us to conclude that the holding of a foreign license is proof of knowledge of the rules for the amateur service in the United States. We would also consider it to be in the public interest that such persons receive conditional licenses, as proposed herein, provided they meet certain other requirements discussed below.<sup>8</sup>

7. We propose that the VEs examine the foreign operator's amateur service license, review identification credentials, and determine the extent of the operating privileges prior to administering a twenty-question examination. The examination would be on those aspects of our rules that are most applicable to the type of operation in which the visitor plans to engage while in the United States. Without compromising the examination, the VEs would be able to explain immediately any rule that the visiting foreign operator wants clarified. The VEs could administer the same questions on the amateur service rules that already appear on the question pools maintained by the VECs. We suggest that the VECs take appropriate questions from the existing question pools to create a separate question pool. If the foreign operator passes the examination, the VEs would record the person's name, addresses while in the United States, the foreign amateur station call sign, and the privileges authorized by the foreign license. They would also issue a Certificate of Successful Completion of Examination (CSCE) to the foreign operator which would serve as proof of the foreign operator's conditional license authorizing operation in the United States.<sup>9</sup>

8. Upon notification by the VES of the completion of the transaction, the coordinating VEC would add the name and United States addresses of the temporary foreign visiting operator to a data base that is maintained and forwarded to the Commission on a regular basis.<sup>10</sup> Upon receiving a CSCE from the VEs, the temporary visiting foreign operator would be authorized to begin a single, consecutive operating period, not to exceed 60 days, at any time within 365 days of the issuance of the CSCE.<sup>11</sup> We believe that the entire process is one that is simple and

convenient for the foreign operator, the VECs and VEs, and the Commission. If harmful interference or some other situation arises involving any of the visitors, we would be able to contact them quickly.<sup>12</sup> We also propose that the license be conditioned on our authority, in our discretion, to modify, suspend, or cancel the operating privileges of a temporary visiting foreign amateur operator. Because we are proposing to permit the stations of amateur operators from foreign countries that do not have a reciprocal agreement with the United States to transmit while in the United States, we specifically invite comments from other government agencies as well as from the amateur community concerning any potential national security implications of this proposal.

9. *Operator privileges.* Because there is great diversity in the privileges afforded to amateur operators by the various countries, it is not feasible to equate directly the classes of amateur operator licenses issued by other countries with a Commission-issued amateur operator license. As a practical matter, and in fairness to all, Section 97.107 of the Commission's Rules, 47 C.F.R. § 97.107, authorizes a Canadian licensee or a reciprocal permittee the same privileges in the United States as those authorized by his/her own government, but not to exceed those granted to our most privileged licensees.<sup>13</sup> We propose to add the temporary visiting foreign amateur operator to this rule. This approach leaves the issue of specific operator restrictions entirely to the country that issued the license. It does not obligate us to question the basis for any operating constraint that is imposed by the licensing country. We also propose to include the present limitation that any person who holds a Commission-issued operator/primary station license is authorized only the privileges of that license.

10. *Reimbursement for expenses.* We propose that Section 97.527(a) of our Rules, 47 C.F.R. § 97.527(a), which authorizes VEs and VECs to be reimbursed for out-of-pocket expenses incurred in preparing, processing, administering, or coordinating examinations for a Technician, General, Advanced, or Amateur Extra operator license be expanded to include examination for certification of a temporary visiting foreign amateur operator.<sup>14</sup>

<sup>6</sup> See Sections 303(l)(1), 308, and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 303(l)(1), 308, and 309. See also international Radio Regulation, Number 2736, Geneva (1979).

<sup>7</sup> The examination topics are listed in Section 97.503 of the Commission's Rules, 47 C.F.R. § 97.503(c). They are (1) FCC Rules for the amateur radio services, (2) amateur station operating procedures, (3) radio wave propagation characteristics of amateur service frequency bands, (4) amateur radio practices, (5) electrical principles as applied to amateur station equipment, (6) amateur station equipment circuit components, (7) practical circuits employed in amateur station equipment, (8) signals and emissions transmitted by amateur stations, and (9) amateur station antennas and feed lines. We do not suggest that examination credit toward our ten-year term licenses be given to holders of licenses from foreign countries.

<sup>8</sup> This procedure is analogous to other licensing procedures for private radio licenses. See, e.g., *Amendment of Part 90 of the Commission's Rules*, 4 FCC Rcd 8280 (1989), recon. pending; *Amendment of Parts 1, 2, and 90 of the Commission's Rules*, 81 FCC 2d 373 (1980), *aff'd. sub nom. Telocator Network of Amer-*

*ica v. FCC*, 665 F.2d 394 (D.C. Cir. 1981).

<sup>9</sup> The VEs currently issue CSCEs for examination elements that the examinee passes.

<sup>10</sup> The VECs are experienced in maintaining data bases using modern data processing. They currently maintain a data base of Technician Operator Class licensees who have passed a telegraphy examination.

<sup>11</sup> For those persons who visit the United States several times a year, the process would have to be repeated for each visit. The temporary visiting foreign operator, therefore, could obtain authority for additional single, consecutive operating periods.

<sup>12</sup> For station identification purposes, we will revise our *Public Notice, Amateur Service Reciprocal Operating Arrangements*, to reflect station location letter-numeral designators that will distinguish the stations of temporary visiting foreign amateur operators from those stations operating under the authority of a reciprocal permit for alien amateur licensee.

<sup>13</sup> The Amateur Extra Class operator license is the highest class of license in our five-tier license structure.

<sup>14</sup> The 1992 maximum reimbursement fee is \$5.44.

## IV. CONCLUSION

11. We believe that it is in the public interest to provide a procedure that allows temporary visiting foreign amateur operators to operate their stations while in the United States. This will particularly benefit tourists who come to the United States on relatively short notice. Additionally, we believe that the proposed procedure will enhance international goodwill. Further, the proposal, as outlined above, would result in no cost to the Commission. The system would be administered and coordinated by the VEs and VECs who can be reimbursed for their out-of-pocket expenses. We invite all interested parties to comment on the proposed rules.

## V. PROCEDURAL MATTERS

*Ex Parte Rules - Non-Restricted Proceeding*

12. 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**

13. 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 temporary visiting foreign amateur operators 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 (1981).

**Comment Dates**

14. Authority for issuance of this *Notice* is contained in Sections 4(f)(4)(J), 301, 303(l)(1), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(f)(4)(J), 301, 303(l)(1) and (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 26, 1992**, and reply comments on or before **November 30, 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 of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

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

## FEDERAL COMMUNICATIONS COMMISSION

*Donna R. Searcy*  
Donna R. Searcy  
Secretary *WJK*

## 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 97.5 is amended by adding new paragraph (f) as follows:

**§ 97.5 Station license required.**

\*\*\*\*\*

(f) The amateur station of a person licensed as a temporary visiting foreign amateur operator is authorized to transmit from a geographic location within 50 km of the Earth's surface where the amateur service is regulated by the FCC.

3. Section 97.7 is amended by adding a new paragraph (d) as follows:

**§ 97.7 Control operator required.**

\*\*\*\*\*

(d) A CSCE indicating the holder passed examination Element 5 within the previous 365 days and is licensed as a temporary visiting foreign amateur operator.

4. Section 97.107 is amended by revising paragraph (c) and redesignating it as paragraph (d), and by adding a new paragraph (c) to read as follows:

**§ 97.107 Alien control operator privileges.**

\*\*\*\*\*

(c) The privileges available to a control operator licensed as a temporary visiting foreign amateur operator are:

(1) The operating terms and conditions of the amateur service license issued by the operator's government;

(2) The applicable provisions of the FCC Rules, but not to exceed the control operator privileges of an FCC-issued Amateur Extra Class operator license; or

(3) None, if the temporary visiting foreign amateur operator also holds an FCC-issued operator/primary station license, in which case the privileges of the FCC-issued license apply.

(d) At any time, the FCC may, in its discretion, modify, suspend, or cancel the amateur service privileges within or over any area where radio services are regulated by the FCC of any Canadian amateur service licensee, alien reciprocal permittee, or temporary visiting foreign amateur operator.

5. Section 97.119(f) is revised to read as follows:

**§ 97.119 Station identification.**

\* \* \* \* \*

(f) When the station is transmitting under the authority of a reciprocal permit for alien amateur licensee, or under the authority of § 97.5(f) of this Part pertaining to a temporary visiting foreign amateur operator, an indicator consisting of the appropriate letter-numeral designating the station location must be included before the call sign issued to the station by the licensing country. When the station is transmitting under the authority of an amateur service license issued by the Government of Canada, a station location indicator must be included after the call sign. At least once during each intercommunication, the identification announcement must include the geographical location as nearly as possible by city and state, commonwealth or possession.

6. Section 97.503 is amended by adding a new paragraph (b)(6) as follows:

**§ 97.503 Element standards.**

\* \* \* \* \*

(b)\* \* \*

(6) Element 5: 20 questions concerning the FCC rules for the amateur radio services as related to the privileges of a temporary visiting foreign amateur operator. The minimum passing score is 18 questions answered correctly.

\* \* \* \* \*

7. Section 97.527(a) is revised to read as follows:

**§ 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 a Technician, General, Advanced, or Amateur Extra Class operator license, and for an examination for licensing as a temporary visiting foreign amateur operator.

\* \* \* \* \*

8. Part 97, Subpart F, is amended by adding a new Section 97.529 as follows:

**§ 97.529 Licensing of a temporary visiting foreign amateur operator.**

A person may be licensed as a temporary visiting foreign amateur operator for a single, consecutive period, not to exceed 60 days, under the following procedure:

(a) The person must pass an Element 5 examination administered at an examination session coordinated by a VEC.

(b) Element 5 must be administered by 3 administering VEs, each of whom must hold an Amateur Extra Class operator license.

(c) The administering VEs must issue a CSCE for a single, consecutive period, showing the starting and ending dates during the 365 days following its issuance, to an examinee who scores a passing grade on examination Element 5 and who:

- (1) Is not a citizen of the United States;
- (2) Holds an amateur service license issued to the examinee by a foreign country other than Canada;
- (3) Does not hold an amateur service license issued by any United States Government agency;
- (4) Is a citizen of the same country that issued the amateur service license.

(d) Within 10 days of the administration of a successful Element 5 examination, the administering VEs must submit to the coordinating VEC:

- (1) The examinee's name;
- (2) The examinee's station call sign;
- (3) The control operator privileges authorized to the examinee by the foreign license held;
- (4) The addresses in the United States where the examinee may be contacted during the period as a licensed temporary visiting foreign amateur operator; and
- (5) The starting and ending dates for the examinee's single, consecutive period as a licensed temporary visiting foreign amateur operator.

(e) Upon request, the coordinating VEC must periodically submit the information received from the administering VEs to the FCC.

**CONCURRING STATEMENT OF  
COMMISSIONER JAMES H. QUELLO**

**RE: Amendment of the Amateur Radio Service Rules to Provide a Special Temporary Licensing Procedure for Visiting Foreign Amateur Operators.**

I am concerned that the proposals contained in this Notice will disadvantage U.S. amateurs seeking to operate their amateur stations in countries that have not signed reciprocal operating agreements. What incentives will foreign governments have to enter reciprocal operating agreements with the U.S. when their citizens are allowed to operate in this country without such agreements? Also, I am concerned that the proposal to allow foreign amateur operators the right to operate their amateur stations in the U.S. without reciprocal operating agreements is inconsistent with Sections 303(1)(3) and 310(c) of the Communications Act of 1934, as amended.