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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT 27 1992

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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PR Docket No. 92-167

To: The Commission

COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED

The American Radio Relay League, Incorporated (the League), the national association of amateur radio operators in the United States, by counsel and pursuant to §1.415 of the Commission's Rules (47 C.F.R. §1.415) hereby respectfully submits its comments in response to the Notice of Proposed Rule Making, 7 FCC Rcd. 4988 (1992) (the Notice). The Notice proposes to amend the Amateur Radio Service rules to provide a means of temporarily licensing foreign amateur radio operators visiting the United States for short periods of time, and who wish to operate their Amateur Radio stations while they are here. In response to the proposed rule changes, the League states as follows:

1. The League strongly supports the Commission's intent in this proceeding, which is to make reasonable accommodation for visiting foreign amateurs who are in the United States for short periods of time. These privileges are often accorded United States amateurs by foreign administrations, even in the absence of a bilateral or multilateral treaty provision, premised solely on the possession of a valid United States license. Other administrations

presumably would accord United States amateurs a temporary authorization to operate their amateur stations while visiting those countries, but for the fact that the United States does not have an expeditious procedure for according their citizens a temporary permit here.

2. In fact, the present arrangements in the United States for authorizing foreign amateur radio operators to operate here are cumbersome and, for a large number of foreign amateurs, represent no accommodation at all unless they are in the United States for a relatively long time. There are two statutory provisions for authorizing amateur operation in the United States by foreign amateur licensees under the Communications Act.¹ The first is for the foreign person, whether licensed in his or her home country or not, to sit for a United States amateur license examination, pass, and be found qualified by the Commission for a license.² Representatives of foreign governments are not eligible to obtain a United States amateur operator/primary station license.³

¹ There are three procedures overall, but one applies only to United States and Canadian citizens pursuant to a specific treaty agreement, not specifically referenced in the Communications Act. See, the Convention Between the United States and Canada Relating to the Operation by Citizens of Either Country of Certain Radio Equipment of Stations in the Other Country (T.I.A.S. No. 2508).

² See, 47 U.S.C. §303(1)(1) and (2).

³ See 47 C.F.R. §97.5(d)(1). The requirement that a foreign government, or a representative of a foreign government cannot obtain a radio station license in the United States appears at §310(a) of the Communications Act. For a time, prior to 1989, the limitation was extended, apparently informally, to alien reciprocal permits as well. However, it was clarified in the rewrite of the

3. The second option for a foreign radio amateur licensed in his home country, and wanting to operate his amateur station in the United States, is for him or her to obtain a reciprocal permit.⁴ The reciprocal station/operator permit is not a license, and is valid for only one year. New permits may, however, be obtained thereafter by the same amateur. To obtain one, an amateur must execute FCC form 610-A, and submit the same to FCC, together with a copy of the amateur license he or she has been granted by his or her home government. The call sign is automatically determined, and

Part 97 rules in 1989 that alien reciprocal permits were not intended to be encompassed within the restriction against issuing station licenses to foreign governments or representatives thereof. See, the Report and Order in Docket 88-139, 4 FCC Rcd. 4719 at 4724 (1992). Thus, alien reciprocal permits are now available to representatives of foreign governments.

⁴ See, 47 U.S.C. §303(1)(3) and §310(c). The former, referring to alien amateur operator permits, reads as follows:

In addition to amateur operator licenses which the Commission may issue to aliens pursuant to paragraph (2) of this subsection, and notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a multilateral or bilateral agreement, to which the United States and the alien's government are parties, for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension or cancellation of any such authorization.

The latter, 47 U.S.C. §310(c), is virtually identical in wording, but is in reference to limitations on holding and transfer of station authorizations for aliens.

is not assigned by the Commission. The major drawback of this permit arrangement from the point of view of the foreign amateur is the prerequisite of a bilateral or multilateral⁵ agreement between the United States and the foreign amateur's home country. Though there are a number of such reciprocal licensing agreements between the United States and other countries,⁶ reciprocal licensing is by no means universal.

4. The drawbacks of the above system are obvious: a visitor from a foreign country, in the United States for a short period of time, will be unable to obtain a United States amateur license because of the need to locate an examination opportunity, take a test, and wait the requisite period for the license to be issued by the Commission. The same is true for foreign diplomats and embassy staff, at any level of foreign service, as they are "representatives of foreign governments", and are thus disqualified by the Communications Act from obtaining a station license. Alternatively, if the foreign visitor is from a country that has no reciprocal agreement with the United States, the amateur is simply

⁵ The Communications Act, until 1990, referred only to "bilateral" agreements between the United States and other countries with respect to amateur station operation by foreign amateurs in the United States. In 1990, in the FCC Authorization Act of 1990, Pub. L. 101-396, 104 Stat. 848, at 850 (1990), Congress modified §§303(1)(3) and 310(c) of the Communications Act to permit alien reciprocal permits to be issued to licensees of countries with which the United States is a participant in a multilateral licensing agreement.

⁶ The Notice in this proceeding states that at present, there are 76 such agreements in force.

out of luck. The additional difficulty of the entire process is that it is a burden on the Commission.

5. The instant Notice proposal would provide a means of temporarily authorizing foreign amateurs to operate their stations in the United States. It involves the use of the Volunteer Examination program, which has, as the Notice states, worked with a great deal of efficiency and integrity since its inception for examining candidates for United States amateur licenses. The Notice proposal is to have these volunteer amateurs examine foreign licensing documents, determine the proper identity of a foreign national who seeks a temporary permit, determine the proper operating privileges for that foreign amateur, and then administer to the foreign amateur a twenty-question examination covering only United States Amateur Radio Service rules applicable to the type of amateur operation in which the foreign amateur wishes to engage while in the United States. If the foreign amateur is successful in passing the examination, the volunteer examiners would issue a certificate of successful completion of that examination, which would constitute a conditional license for that visiting amateur. The permit would authorize operation for 60 consecutive days within a one-year period following the issuance of the certificate by the volunteer examiner. The examiner would maintain a list of names and United States addresses of visiting amateurs who have so qualified;

the foreign amateur's home call sign; and the privileges authorized each person by the foreign license.⁷

6. As first stated hereinabove, the League is most supportive of the Commission's intent in this proceeding. Though the Notice proposal would not directly benefit United States radio amateurs, the Amateur Radio Service worldwide is a close-knit global community, and the extension of operating authority to visiting radio amateurs is a matter of basic accommodation and a component of the unique ability of amateurs to further international goodwill. In many countries, visiting radio amateurs are able to obtain temporary operating authorization on the strength of their United States license and little else, regardless of the existence of a reciprocal treaty between that foreign country and the United States. Simplification of the licensing arrangements for visiting foreign amateurs is an important means of furthering amateur radio internationally.

7. However, for a number of reasons, both legal and practical, the League believes that the Commission's important and beneficial

⁷ The Commission, in the context of issuing alien reciprocal permits, uses a principle of the "lowest common denominator" in determining the operating privileges to be accorded a foreign amateur in the United States. See 47 C.F.R. §97.107(b). That is, the visiting amateur, operating under a reciprocal permit here, will have only those operating privileges that are common to both the United States and the visiting amateur's home country. This leads to significant anomalies in numerous cases. For example, a European radio amateur operating in the United States under a reciprocal permit would only be permitted to use the 144-146 MHz segment of the amateur two-meter band, regardless of his or her license class in his or her home country, while amateurs of all classes of license in the United States (above Novice class) are permitted to use the entire 144-148 MHz band.

goal is better met via other means. The volunteer examiner program in the United States, authorized pursuant to statutory authority,⁸ was intended from its inception to apply to examination of United States amateurs. There is no authority contained therein for examiners to determine the qualifications of a candidate for an amateur license, even a temporary one, or to determine the operating privileges to be accorded a foreign amateur under a temporary permit. It appears that the instant proposal may well exceed the statutory authority that the Commission has to utilize volunteers in preparing and administering examinations for amateur licenses. The Notice proposal would require that individual volunteers evaluate foreign licensing documents and issue United States license documents, with no participation on the part of the Commission in determining operator qualifications at all. That would, on its face, go beyond the preparation and administration of examinations to candidates. Too, the Notice proposal contemplates the issuance of licenses (albeit temporary ones), rather than permits, and it is unclear whether such would be available to embassy and other diplomatic personnel, consistent with the proscription on issuance of station licenses to representatives of foreign governments under §310(a) of the Communications Act.

8. Of even greater concern than the legalities of the proposed procedure are the practical problems inherent in the proposed process. A person who wishes to obtain a temporary operator

⁸ See, 47 U.S.C. §154(f)(4)(A) and (B).

authorization while visiting the United States would have to locate, travel to, and take an examination on the Amateur Radio Service Rules here, apparently in English. The examination may or may not be offered at a time or place convenient to the visiting foreign amateur, given the temporary nature of his or her visit. The examination process is a burden not currently placed on those foreign amateurs who seek to operate here pursuant to a reciprocal permit, and is excessive under the circumstances.

9. Neither is it reasonable to assign to volunteer examiners the task of having to evaluate the bona fides of foreign license documents, which are often written in languages other than English. The Commission is, or should be, in a position to perform that analysis, with the assistance of the Department of State, if necessary. It is not a skill within the normal capabilities of a volunteer examiner team. These individuals, who give generously of their time and effort already,⁹ are simply not in a position to

⁹ The Commission presently has under consideration a proposal, in PR Docket 92-154, to incorporate the Novice class examination function within the volunteer examiner program. This will greatly facilitate administration of the Novice class license and relieve the Commission of much administrative burden, by consolidating the submission of application forms and providing a pre-screening process before the applications reach the Commission's Gettysburg office. It will, however, significantly increase the workload of volunteer examiners. It would be most unwise at the present time to saddle the volunteer examiners with the examination of visiting foreign amateurs, a process which appears to be an excessive additional burden anyway, while at the same time placing the workload of the Novice examination program on their shoulders as well.

make any reasonable evaluation of foreign language documents¹⁰. In addition, under the Notice proposal, the volunteer examiner would be required to ascertain, by review of the foreign language document, what the operating privileges of that visiting amateur are in his or her country, and to compare those to the operating privileges of a United States amateur, thus to arrive at an interpretive determination of the privileges to be accorded that person in the United States during a temporary visit. The task, for a typical volunteer examiner, is daunting, to say the least, and is an unreasonable delegation of the Commission's authority to determine operator qualifications. The procedure is overly cumbersome for the visiting amateur as well, and is certain to discourage most foreign visiting amateurs from participating.¹¹ It is easier to obtain a reciprocal operating permit under present arrangements (provided of course that the requisite reciprocal

¹⁰ Under the instant Notice proposal, VE teams are apparently to become expert document examiners of the license paperwork of more than 100 nations, with the ability to examine, determine legitimacy of the license document, and establish the class of license. There are no training materials in existence, of which the League is aware, nor, to the best of the League's knowledge, is there a registry anywhere of such documents.

¹¹ The proposal, since it is proposed as a means of accommodation of foreign amateurs here, should be viewed from the perspective of the foreign visiting amateur. Indeed, many foreign administrations view amateur reciprocal licensing arrangements as a two-way street: what we are willing to do for their citizens, they are willing to do for ours. Few amateurs in the United States would be willing to take a 20-question examination (even if one could be located without assistance from the governmental authority involved, and if it were geographically and temporally convenient) in the language of the nation that they are visiting.

treaty is in place), though as noted above, the present procedure has significant limitations.¹²

10. There are other practical problems associated with the proposed procedure. As proposed, a foreign amateur arriving in the United States will not in advance have any United States licensing document in hand. This could pose significant difficulties for the foreign amateur who arrives in the United States with amateur radio equipment but no license to demonstrate that he or she has authority to operate it here. As a separate matter, numerous states and municipalities in the United States have ordinances which prohibit the possession of amateur radio equipment capable of reception of frequencies other than amateur bands, especially in automobiles. These statutes often exempt licensed radio amateurs. However, a foreign amateur, armed with a foreign license (in a foreign language) and a CSCE from a volunteer examiner, will have

¹² The limitations of the present reciprocal licensing arrangements, and the drawbacks of the instant proposal, become apparent when the more flexible procedures of many other administrations are reviewed. As an example, League representatives routinely attend meetings and conferences of the International Amateur Radio Union (IARU) often held in other countries. Routinely, at those conferences, attendees from amateur radio societies worldwide are each issued licenses by fiat of the host administration without examination, or even formal application. At the 1992 World Administrative Radio Conference in Spain (Torremolinos, 1992), amateur licensees in attendance at the Conference were, by authority of the Spanish telecommunications administration [through the Spanish Amateur Radio Society (URE)], automatically approved for licensing. Though these examples relate to more formal international gatherings, the process is not significantly more difficult for routine international travelling amateurs. When viewed in light of the accommodations made by other administrations for visiting United States amateurs, the proposed procedure here does not compare well; it is apparently not a beneficial means of encouraging international goodwill.

insufficient documentation to establish that he or she is in the exempt category. For these reasons as well, the proposed licensing plan is unworkable, and burdensome to the foreign amateur.

11. There are alternative means of accomplishing the Commission's goal of simplifying reciprocal permit issuance. Perhaps the best one is for the United States to take the lead in establishing a common license, in the form of an internationally recognized endorsement on the amateur radio license document from an amateur's country of citizenship. This would serve as an encouragement to those foreign amateurs who wish to operate their stations here temporarily, or for a longer term. It would benefit United States amateurs at the same time. It would also place no regular processing burden on the Commission. A reasonable model for such a program would be the International Driving License (IDL)¹³. An IDL is never valid in the operator's country of citizenship, but only in other countries. It is issued in the United States by a private sector association for a fee. It is never valid by itself, but only when held in conjunction with the license issued by the country of citizenship. No local examination is needed, or local registration in any participating country. Only the possession of an IDL is necessary. Since the IDL is issued in the country which issued the driver's license to the holder of the IDL, there is no problem for the issuer of the IDL to examine the original for

¹³ The IDL is authorized by the Convention on International Road Traffic, 19 September, 1949.

validity and privileges. What is needed by way of reciprocal authority in the Amateur Radio Service is the equivalent of an IDL.

12. The United States has such an arrangement only with Canada at the present time. That has worked extremely well,¹⁴ and with no complaint. Yet, a positive first step toward establishing a common amateur radio license endorsement for use in other countries would be for the United States to participate in the licensing system for amateurs established by the European Conference of Postal and Telecommunications Administrations (CEPT). Under this arrangement, and by means of a table of equivalencies for dissimilar licenses among CEPT countries, amateurs may, solely by virtue of a CEPT endorsement on their own country's amateur license, operate their stations in other CEPT countries. The CEPT agreement for the common licensing of amateur operators was amended in May of 1992 to permit states (such as the United States) outside the territory of CEPT to become signatories, for purposes of amateur licensing only.¹⁵ Thus, for the United States to become a signatory to the CEPT agreement would not constitute membership of the United States in the CEPT, nor would it signify the concurrence of the United States in any other position taken by CEPT on any topic.

¹⁴ Regardless of the outcome of the instant proceeding, it is critical that no action be taken by the Commission which would have any effect on the current arrangement between the United States and Canada regarding operation in one country by citizens of the other.

¹⁵ See Exhibit A, attached, which is a copy of CEPT Recommendation T/R 61-01 (revised), Appendix III relative to the participation of non-CEPT countries in the CEPT Radio Amateur License.

13. Of course, if the United States were to become a signer of the CEPT amateur license agreement, the provisions of the agreement would apply only to the United States and those CEPT countries that are parties to the agreement. The leadership exhibited by the United States would, however, be an important first step toward a worldwide license endorsement for international amateur radio operation. The administrative burden of such a procedure on the Commission would be virtually nil once implemented. Nor would there be a burden on volunteer examiners in the Amateur Radio Service in this country. No additional legislative authority would apparently be required in order for the United States to participate in the CEPT amateur license agreement. The requisite negotiations could be pursued with CEPT by the Department of State, with the concurrence of the Commission.

14. Participation of the United States in the CEPT agreement, or in other multilateral agreements related to common licensing of amateurs internationally, is not necessarily intertwined with this proceeding. The League's discussion of the CEPT agreement and the concept of common licenses in this proceeding is principally to illustrate that a conceptual alternative exists to the present Notice proposal, and that the alternatives which should be considered do not suffer the same procedural shortcomings of the instant proposal. The Commission is to be congratulated for recognizing that some revision of the means of accommodating foreign amateur radio operators who visit the United States is necessary. The League shares that view wholeheartedly. It is

merely the means to accomplish that end that should be the subject of further study, with an eye toward making the Amateur Radio Service in the United States the model for bringing radio amateurs closer together, thus to enhance their unique ability to promote international goodwill.

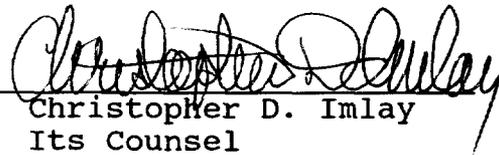
Accordingly, the foregoing considered, the American Radio Relay League, Incorporated respectfully requests that the proposed rule changes contained in the Notice not be adopted as proposed. Rather, the Commission should initiate further proceedings looking toward alternatives to an examination procedure for a simplified international reciprocal licensing system.

Respectfully submitted,

**THE AMERICAN RADIO RELAY
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APPENDIX III

PARTICIPATION OF NON-CEPT ADMINISTRATIONS IN THE CEPT RADIO AMATEUR LICENCE ACCORDING TO THIS RECOMMENDATION

1. APPLICATION

1.1 Administrations, not being members of CEPT, may apply to the CEPT for participation in the CEPT radio amateur licensing systems regulated by this Recommendation. Applications should be addressed to CEPT EUROPEAN RADIO COMMITTEE (ERC), through the European Radio Communication Office (ERO). (see note)

A non-CEPT Administration in joining this Recommendation enters into an agreement with all CEPT countries having implemented this Recommendation or will do so in the future. It should be noted that non-CEPT countries wishing to implement this Recommendation between them should do so by separate agreement.

1.2 The application shall include a list of licence classes in the country concerned, their privileges and the proposed CEPT licence class equivalents. Details of national examination syllabuses or documents describing the requirements of the national licence classes and their privileges shall be enclosed with the application. All the details mentioned above must be submitted in one of the official languages of the CEPT (English, French or German).

1.3 The applying Administration shall provide the call sign prefix(es) to be used by visiting radio amateurs, and details of any special conditions relating to the implementation of this Recommendation in the country concerned. Special conditions or restrictions should be confined to a minimum, and should not be imposed unless absolutely necessary.

1.4 A non-CEPT Administration having been granted special conditions as per 1.3 shall include these in a footnote in Appendix IV.

2. PROCEDURES OF APPLICATIONS

2.1 The CEPT ERC shall check, based mainly on Recommendation T/R 61-02, each application to determine the equivalence of the national licence classes to those specified in this Recommendation and to assess the acceptability of any deviations from the respective Recommendations which have been requested by the applying Administration.

Note: Address ERO Holsteinsgade 63, DK 2100 Copenhagen

- 2.2 When the ERC has agreed to accept the participation of a non-CEPT country it notifies the applying Administration and arranges for the CEPT Liaison Office to include the relevant details in Appendix IV.
- 2.3 A CEPT Administration requiring a separate bilateral agreement to apply this Recommendation with a non-CEPT Administration, shall indicate this in a footnote in Appendix II.
- 2.4 A non-CEPT Administration requiring a separate bilateral agreement to apply this Recommendation with a CEPT Administration, shall indicate this in a footnote in Appendix IV.

3. CONDITIONS OF UTILIZATION

The technical and operational privileges which apply for CEPT-licence holders from non-CEPT countries are in conformity with the privileges of the appropriate national licence classes indicated in Appendix II, columns 6 and 7.