

question pools must be related to "radiofrequency environmental safety practices at an amateur station".

5. The practical problem with this is not the number of questions in each question pool related to radiofrequency environmental safety practices at an amateur station. The existing pools for examination elements 2, 3(A) and 3(B) each currently contain at least that many questions on that subject. Therefore, the Commission's intent in revising the rules is already being addressed in existing examinations. The problem, instead, is that the examinations now in circulation do not contain the requisite number of questions, and the present Element 3(A) and 3(B) question pools, slated for revision in the near term, do not contain at least 300 questions (ten times the number of questions which must be administered on each examination element). The practical effects of the immediate effective date of this one rule are as follows:

- * The public¹ has been made aware, and expects, that the Element 2 and 3(A) examinations (not to be confused with the question pools) will be changing shortly, but they don't expect the implementation of the new pools until July 1, 1997.

- * Work on revising the Element 2 and 3(A) pools has been underway for over a year, and is scheduled for completion

¹ This is not a small number of persons affected: in the past twelve months, the ARRL-VEC administered 26,420 Element 2 examinations, 29,136 Element 3(A) examinations, and 8,322 Element 3(B) examinations.

on December 1, 1996--at which time the pools are placed into public domain for use in preparation for future exams by instructors, volunteer examiners, publishers (who will need several months to prepare study guides) and students--all to culminate with the new pools being implemented in the exam room on July 1, 1997.

* The public has been made aware, and expects that the Element 3(B) question pool will be changing, but not until July 1, 1998. Work by the question pool committee of the VECs is scheduled to begin on the element 3(B) question pool once the element 2 and 3(A) pools are released on December 1, 1996.

* The ARRL/VEC has approximately 24,000 examiners, many or most of whom have examination supplies on hand. Each of those examiners must be notified of the change in the question pools, and of the number of questions to be asked on the exams. Notification via newsletter mailing takes 2-3 days preparation and proofing, 2-3 weeks duplication time, 2-3 days to get them into the mail and 7-20 days mailing time bulk rate for 24,000 VEs. The cost is substantial.

* Tens of thousands of dollars worth of test booklets must be replaced. In the case of the League, there are

more than 775 field-stocked VE teams who have more than 180 test booklets each that would have to be replaced. Test booklet preparation and duplication takes 3-4 weeks, packaging and mailing takes 2-3 days and mailing time is 2-5 days. The cost is substantial.

* The League has 2,600 examination administration software user VEs who must receive an update to their software before their software will create a valid test that will include the additional 5 questions for the Novice, Technician and General [element 2, 3(a) and 3(b)] pools. Software update and duplication takes 10 days, packaging and mailing takes 2-3 days and mailing time is 2-5 days. The cost is substantial.

* As noted above, the question pools as they presently exist already include the requisite five RF-Safety questions for the three license classes. All VECs are therefore now meeting the intent of the order. However, adding 5 questions to each examination requires significant time, effort and logistics to do the job right. Rushing to create new examination questions is unquestionably a disservice to future amateur licensees.

* The vast majority of the individuals doing examination preparation and administration, at all levels, are

volunteers. They are not paid, nor motivated, to make changes in the examinations and question pools without any preparation time at all. In all fairness to these volunteers, a reasonable time must be afforded them to prepare for introduction of these new guidelines into the license examination process. What is required is to implement these important changes in a competent and complete manner for the benefit of the public. This takes more than the zero preparation time that the Commission has afforded, with absolutely no advance notice whatsoever.

6. The Regulatory Flexibility Act analysis in this proceeding is flawed, in that it failed utterly to address the impact of the rule change on small business entities such as the League, and at least one other larger VEC. Furthermore, the elements necessary for a temporary stay on the effective date of the new amateur radio examination rule, Section 97.503(b), are each indisputably met. The Commission follows a four-element standard in determining whether to issue a stay:

- (1) the likelihood that a petitioner will prevail on the merits (if reconsideration were sought);
- (2) the likelihood of irreparable injury to the petitioner in the absence of a stay;
- (3) the injury to other parties in a proceeding that might arise from a grant of a stay;
- (4) any injury to the public interest that might result.

See, e.g., Storer Communications, Inc., 101 FCC 2d. 434 (1985); *Access Charges (WATS ReSellers' Transition)*, 62 RR 2d. 36 (1987). *Wisconsin Gas Co. v. FERC*, 758 F2d. 669 (D.C. Cir. 1985). In the instant proceeding, a number of factors are present to justify a temporary stay of the effective date of this one rule: there is ample justification for the requested delay in the implementation of the new examination question rule, demonstrated above. It is impossible for the League, or any other VEC, to meet the August 7, 1996 deadline for revision of examinations and examination question pools, because that date has already passed, and numerous examinations stand to be administered in the next few weeks in violation of the rules. The costs incurred in making the change in advance of the normal timetable for modification of the examinations and the question pools are unnecessary and themselves constitute irreparable injury. There is no possible injury to any party if the stay is granted, since there are already RF-Safety questions on the existing examinations. As well, for that reason, there is no basis to conclude that the public interest would be served by denying the request. Rather, the integrity of the amateur volunteer examination process would be protected by the extension of the implementation date requested herein.

Therefore, the foregoing considered, the American Radio Relay League, Incorporated respectfully requests, good cause having been shown, that the implementation date for the amended Section 97.503(b) of the Commission's rules be extended, with respect to

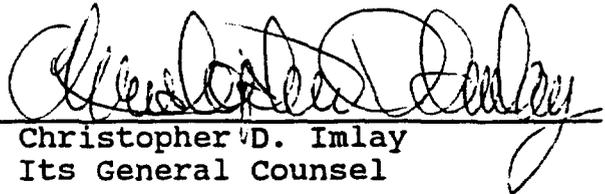
Element 2 and 3(A) examinations to July 1, 1997, and with respect to Element 3(B) examinations, to July 1, 1998.

Respectfully submitted,

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