

[REDACTED]

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington DC 20554

In the matter of

Amendment of sections 97.505 and 97.509  
of the Rules Governing the Administration  
of Telegraphy Examinations in the Amateur  
Radio Service

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) FCC MAIL ROOM

TO: The Commission

**STATEMENT IN OPPOSITION BY THE  
WESTERN CAROLINA AMATEUR RADIO SOCIETY/VEC, INC.**

We hereby submit this Statement in Opposition pursuant to Section 1.405 of the Commission's Rules (47 C. F. R. §1.405) in response to the Petition for Rulemaking (the petition), filed by the American Radio Relay League (ARRL) on September 23, 1997. On November 26, 1997, the Commission assigned this petition file number RM-9196 and established a 30 day preliminary comment period. (Public Notice Report #2239, mimeo 80614.) Considering holidays, this public comment period ends on December 29, 1997. Therefore these comments are timely filed.

Qualifications of the Commenter

The Western Carolina Amateur Radio Society/VEC, Inc. is the oldest active Volunteer Examiner Coordinator (VEC) in the continental United States. Only Anchorage ARC, Anchorage, Alaska holds a letter of agreement dated prior to ours. We are also the largest TOTALLY VOLUNTEER VEC as measured by statistics of volume of testing activity. We are organized as a Not For Profit Corporation with our Corporate Directors selected because of their demonstration of leadership among the Amateur Community, with each remaining in a leadership role in the VE program in their individual areas of residence. This gives us the

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advantage of distributing the work load among us in such a manner as to maintain it at a manageable level while having local leaders in charge of virtually all of our coordination activities. Our directors function at more levels in the VE program than will be found in any other VEC and are therefore in a position to have a more comprehensive field of vision of the program in general than any other group conspicuously available.

The ARRL Petition:

The ARRL petition requests a provision in the Part 97 Rules which would further involve the VEC System in telegraphy examinations administered to disabled amateur radio operator examinees. specifically, the ARRL's petition wants to change the procedural requirements in Part 97 covering the way Morse code exam exemptions for severely handicapped applicants are handled prior to granting examination credit.

The League has proposed that a candidate would have to attempt the CW test - with any and all necessary accommodations - before being granted an exam waiver based on a physician's certification. Also, VECs would be required to request and review medical information pertinent to an applicant's handicap from the certifying physician and would be required to have this information on file before the application is forwarded to the FCC for processing.

In support of their petition, the League basically makes four arguments. The ARRL (1) characterizes these two changes as minor which (2) would stem the abuses of the higher speed telegraphy examination waiver system, (3) limiting its use only to severely

handicapped individuals and (4) without putting an unreasonable burden on examinees or the VEC system. We take issue with all of these positions.

Present documentation

The present system requires the physician to sign a detailed statement which, in our considered opinion, is very seldom actually read by the busy physician - specifically

"I CERTIFY THAT I have read the Notice to Physician Certifying to a disability , and that the person named in item 1 on the reverse is severely handicapped, the duration of which will extend for more than 365 days beyond this date. Because of this severe handicap, the person is unable to pass a 13 or 20 words per minute telegraphy examination. I am licensed to practice in the United States or its Territories as a doctor of medicine (M.D.) or doctor of osteopathy (O.D.). I have considered the accommodations that could be made for this person's disability and have determined that, even with accommodations, the person would be unable to pass a 13 or 20 words per minute telegraphy examination.  
WILLFUL FALSE STATEMENT IS PUNISHABLE BY FINE AND IMPRISONMENT (U. S. CODE SECTION 1001)"

followed by the patient's release:

"Authorization is hereby given to the physician named above, who participated in my case, to release to the Federal Communications Commission any medical information deemed necessary to process my application for an amateur operator/primary station license."

The physician almost universally depends on an explanation from a third party, not infrequently the licensee himself. Can't you just hear those explanations?

We believe a much more reasonable attitude would be taken by the physician himself if the statement were to be drastically condensed and detailed, for instance:

"The person named in item 1 on the reverse is severely handicapped, the duration of which will extend for more than 365 days beyond this date to the point the person either:

1. Cannot comprehend the difference between the presence or absence of an audible tone OR
2. Cannot communicate his comprehension at the rate of 13 or 20 words per minute"

Let the good doctor supply the state of his licensing as part of the variables applicable to each individual waiver.

The patients's release of information should be without reservation, namely:

"Instructions are hereby conferred to the physician named above to release into public domain any medical information pertaining to me that might be in his possession."

That simple statement would diminish the generality of the problem to the point any person who took the few seconds necessary to read it would be much better informed of the request actually being made than is now the case.

Our philosophy of the waiver itself:

East Tennessee is home to a licensed amateur of general recognition, a Mr. Matthew B. Kirby WB4IOB. Mr. Kirby's call sign was the replacement of the repeater license on 146.13/146.73 MHZ when repeater licensing was discontinued in the late seventies. He is a well known and very viable part of the amateur community in spite of a severe affliction of cerebral palsy to the point of constant and very conspicuous involuntary muscular activity affecting not only his ability to write but speak as well. He has been seen to take ten seconds or longer to sign his name to a check he had asked someone

else to otherwise complete. He is often heard on the air taking that much time, if not more, to stutter out his call sign. We believe we speak for the amateur community and the general population in saying commission action upgrading his General class license to Extra class without any examination or other effort on his part whatsoever would meet with our complete support.

It is quite unfortunate, but we believe that more than 90% of the code speed waivers we see coming through are in fact abuses of the program by those unwilling to expend the effort to actually learn what they legitimately should know to pass the test in the first place, namely enough practice as actually operating via morse code. Instead they plead their case at their physician's office, all too often with complete success.

#### VEs and VECs are not doctors

We have been told that the extent of our investigation into the legitimacy of a proposed code speed waiver is limited to questioning the authenticity of the physician's signature, as we are not qualified to exercise a medical judgement.

If we are required to obtain detailed information from the certifying physician before processing the code speed waiver, what has happened to cause us to NOW be qualified to make any judgement concerning the matter that involves medical prudence. As stated above, we are proud of our proven expertise as carried by our present VEC Corporate Directors. All are licensed and degreed professionals. Of the five, two are Certified Public Accountants, the other three are

electrical engineers. None have medical training to the point we would not know what to do with the details of a physician's files even if the doctor did send it to us. Once we get detailed information from the physician, what are we supposed to do with it? Certainly the cost recovery examination fee [presently limited to \$6.36 per applicant per session] does not permit employment of medical professionals who would have a meaningful judgement to offer on an across the board sampling of applications received.

Time IS a factor in the VOLUNTEER SERVICES

As stated above, WCARS/VEC presently has the work load distributed among our directors to a manageable level. Adding the efforts of obtaining detailed records from an often uncooperative doctor and dealing with the resulting belligerent applicant could easily push the time required for administering an application past the point of acceptability by either the VEC, the examinee or the FCC.

We strongly urge the commission to both condense and detail the statement as required to be signed by the physician and leave the VECs to function at what they do best, coordination of examination sessions.

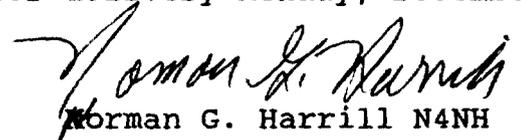
Respectfully Submitted  
Western Carolina Amateur Radio Society/VEC, Inc.

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by: Norman G. Harrill N4NH  
President

Certificate of Service

On December 27, 1997, I forwarded this document (described as a Statement of Opposition to RM-9196) to ARRL General Counsel Christopher D. Imlay, of the Law Firm of BOOTH, FRERET, IMLAY & TEPPER, P. C., 5101 Wisconsin Avenue, N. W. Suite 307, Washington, DC 20016 as required by Section §1.47 and §1.405 of the Commission's Rules (47 C.F.R. §1.47, 47 C.F.R §1.405) for delivery Monday, December 29, 1997

  
Norman G. Harrill N4NH