

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

In the Matter of)	
)	
1998 Biennial Regulatory Review --)	WT Docket No. 98-143
Amendment of Part 97 of the Commission's)	
Amateur Service Rules.)	
)	
FCC Report and Order)	FCC Report and Order 99-412
Released December 30, 1999)	

To: The Secretary,
Federal Communications Commission

cc: Chairman William E. Kennard
Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Harold Furchgott-Roth
Commissioner Gloria Tristani
Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau
D’wanna Terry, Chief, Public Safety and Private Wireless Division, WTB
William Cross, Public Safety and Private Wireless Division, WTB

**CONSOLIDATED COMMENTS OF NO CODE INTERNATIONAL IN OPPOSITION TO
OR SUPPORT OF THE VARIOUS PETITIONS FOR PARTIAL RECONSIDERATION
FILED IN THE ABOVE-CAPTIONED MATTER**

No Code International ("NCI"), on behalf of its Members and by its Board of Directors, hereby submits its Opposition to the majority of the Petitions for Partial Reconsideration and its sole Support for the Petition for Partial Reconsideration of the American Radio Relay League filed in the above-captioned Proceeding.

I. INTRODUCTION

1. NCI is a not-for-profit organization of licensed radio amateurs, as well as those interested in amateur radio but not yet licensed, which has as a major goal the global elimination of all requirements for Morse code proficiency for any class of amateur radio license. NCI was founded in 1997 and is experiencing rapid growth, both within the U.S. and internationally. While NCI has an international membership and global goals with respect to various amateur regulatory matters, a majority of its members are currently U.S. licensed radio amateurs.

2. NCI filed a restructuring proposal with the Commission prior to the release of the Notice of Proposed Rulemaking (“the NPRM”), as well as timely-filed Comments and Reply Comments, and Ex Parte Presentations in this Proceeding. NCI is an interested party in this proceeding.

3. Having reviewed the Petitions, NCI urges that all of the Petitions, with the exception of the Petition of the ARRL, be DENIED without delay because we find the Petitioner’s arguments (*other than those of the ARRL and item 3 of the Qualls Petition, which item essentially parallels the ARRL’s Petition in part*) to be fundamentally without merit in that they raise no new issues not already considered by the Commission in this Proceeding, nor do they point out any procedural error on the part of the Commission in formulating its Report and Order¹ (“the R&O”) in this Proceeding.

¹ FCC Report and Order 99-412, released December 30, 1999

4. We will, in the following sections of these Comments, address each of the various Petitions point by point and elaborate our views as to why each Petition should be either DENIED or GRANTED.

II. THE PETITION(S) OF WORMSER, ADSIT, AND DINELLI

5. In the Wormser, Adsit, and Dinelli Petition(s), the Petitioners assert that “*Specific elements of the R&O (FCC 99-412) contradict its stated and implied goals: to maintain the Amateur Radio Service as a fundamentally technical service and attract technically minded individuals, to encourage amateurs to advance their skills, to contribute to the radio art, and to reduce burdensome procedures inflicted on volunteer examiners. The R&O fails to consider major issues brought forth in a number of the formal comments that were filed, and also makes incorrect statements about the nature of emergency operations on the HF bands in the Amateur Radio Service*”²

6. NCI finds absolutely no evidence in the R&O supporting the Petitioners’ assertions. On the contrary, we find the Commission’s decisions in this Proceeding to be entirely consistent with its stated goals. Furthermore, the Commission’s decisions in the R&O are supported by the body of comment in the Proceeding and we find no evidence of any procedural error on the part of the Commission whatsoever.

² The Wormser, Adsit, and Dinelli Petition, at 7.

7. NCI firmly believes that the Commission's simplification of the licensing structure, elimination of undue emphasis on Morse code proficiency, and other changes to the Commission's Rules implemented in the R&O will meet all of the stated goals of the Proceeding and will promote a healthier, more progressive Amateur Radio Service, better able to fulfill the Basis and Purpose outlined for it in Part 97.1 of the Commission's Rules [47 C.F.R. §97.1].

8. In the Wormser, Adsit, and Dinelli Petition, the Petitioners also assert that the Commission has "*a strategy of lowering technical standards.*"

9. Despite the Petitioners' litany of assertions to the contrary³, NCI also finds absolutely no evidence in the R&O that it is, or was, the Commission's intent to "lower technical standards" or that the changes to the Commission's Rules promulgated in the R&O will have the effect of "lowering technical standards."

10. In the Petition, the Petitioners mischaracterize both the letter and the intent of Commission's decisions with respect to written examinations in the R&O⁴ as follows: "... *the R&O shares the opinions of Ray Adams that Technicians do not need to understand how their radios work, because most amateurs these days do not know how to repair their own equipment.*"⁵; and "*The R&O shares the opinion of the NCVEC (Fred Maia) comment that today's Technician Class licensees primarily purchase commercially-made radios, and therefore do not need to know how the electronics work.*"⁶ These mischaracterizations ignore virtually all of the letter of the Commission's decision, instead focusing and relying in their entirety upon small, isolated portions of two comments referred to in the R&O as if they were the sole basis of the Commission's decision. Clearly the

³ The Wormser, Adsit, and Dinelli Petition, at 8, 9, 10.

⁴ FCC Report and Order 99-412, at 42, as referenced by Petitioners.

Commission's decision was based on a thorough and complete review of the entire body of comment and the ultimate decisions were made on the basis of what the Commission determined would best serve the public interest and promote a healthy and progressive future for the ARS.

11. The Petitioners also state: "*The R&O would tend to reduce the Amateur Radio Service to another non-technical personal radio service, and would fail to attract technically inclined individuals.*"⁷. NCI submits that the preceding quote from the Petition is nothing more than the unsupported personal view of the Petitioners and represents a minority view, apparently based on the Petitioners' personal biases, which is not supported by any reasonable reading of either the R&O or the body of comment in this Proceeding.

12. NCI finds absolutely no evidence whatsoever in the Commission's decision in the R&O⁸ to support the contention of the Petitioners that the Commission's intent was to "reduce test standards" or that the effect of the new Rules promulgated in the R&O would result in the alleged "reducing (of) test standards".

13. NCI believes that any reasonable reading of the Commission's decision clearly indicates the Commission's intent is solely to arrive at "**... an examination system that is more relevant, that is simpler for examinees and licensees to understand, and that takes advantage of the ability that the VECs consistently have shown since 1986 to maintain the question pools.**"⁹ (emphasis added).

⁵ The Wormser, Adsit, and Dinelli Petition, at 15.

⁶ The Wormser, Adsit, and Dinelli Petition, at 16.

⁷ The Wormser, Adsit, and Dinelli Petition, at 16.

⁸ FCC Report and Order 99-412, at 42.

⁹ FCC Report and Order 99-412, at 42.

14. The Petitioners also assert *that “The R&O fails to maintain technical standards in yet another way: It reduces the total number of questions in the written tests on the upgrade path to Amateur Extra.”*¹⁰

15. NCI fails to find any “logic” in this complaint. Obviously, reducing the number of license classes (a fundamental goal of the Proceeding) results in fewer test elements. However, the Petitioners fail to demonstrate in any convincing way that the body of knowledge required to achieve the Amateur Extra Class license (or any other class of license, for that matter) is being, or will be, reduced from present standards.

16. To “support” their contention, the Petitioners assert that: *“The R&O will merge the 4A and 4B tests into a single 50-question test, thereby reducing the question pool from 900 to only 500 questions. Such a reduction will severely reduce the scope of the questions and a less thorough test will result.”*¹¹

17. This assertion demonstrates the Petitioners’ fundamental lack of understanding of the new Rules promulgated in the R&O and their impact on the testing process and takes huge leaps to conclusions not supported by the R&O or the new Rules promulgated therein.

¹⁰ The Wormser, Adsit, and Dinelli Petition, at 19.

¹¹ The Wormser, Adsit, and Dinelli Petition, at 19.

18. The Commission's Rules¹² require that the question pools for each written element contain no less than ten times the number of questions on each written test. There is no limitation in the pertinent section of the Commission's Rules on the number of questions which may exist in the pool for each element ... theoretically each element's question pool could consist of a hundred, or a thousand, or more, times the number of questions comprising each test.

19. Thus, the Petitioners offer absolutely no proof, nor is there any reason to believe, that the creation of a new question pool for the new Element 4 will result in any significant reduction in either the number of questions in the pool for that element, nor in the quality or breadth of the material covered therein. In fact, the merging of the former Advanced and Extra question pools into the new Element 4 question pool will, at a minimum, maintain the depth and breadth of the material one must master to attain an Extra class license.

20. NCI is forced to conclude that the Petitioners fail to grasp (or refuse to accept) the elementary concept that an amateur license is a "permit to learn and experiment" not a "graduation certificate" and that, since participating in the ARS is supposed to be a learning experience, it is inappropriate to insist that an applicant for an amateur license "know everything one could possibly know" at the outset (as the Petitioners seem to feel should be the case).

¹² Part 97.503 [47 C.F.R. §97.503]

21. NCI does not believe that the changes to the Commission's Rules, as embodied in the R&O, "call for a lowering of technical standards" as asserted by the Petitioners, nor do we believe that the implementation of the prescribed changes will result in that effect. On the contrary, we believe that the changes prescribed in the R&O provide additional incentive for learning the technical material necessary to upgrade to a higher class of license because the prescribed changes remove unnecessary barriers (notably the 13 and 20 wpm Morse code tests) which have dissuaded many from undertaking to upgrade (or even to become amateurs in the first place) in the past.

22. As a final observation on this subject, NCI would note that, if the Petitioners are genuinely so concerned about the quality and quantity of questions in the question pools, they should undertake to prepare suitable question and answer sets and submit them to the NCVEC's Question Pool Committee, which we understand welcomes such submissions.

23. The Petitioners claim that the Commission "ignored" their "*significant comments ... which were also supported by at least 15 others.*" with respect to the subject of applicants "repeating failed test elements."

24. NCI first observes that the fact that the R&O does not specifically cite the Petitioner's Comments does not in any way constitute evidence that the Commission did not consider those comments.

25. NCI also contends that, out of a body of comment consisting of well over 2,000 comments, 16 comments addressing an "issue" not specifically covered in the NPRM do not indicate a significant degree of concern in the body of comment over this "issue" and that it is reasonable to assume that if a real problem existed in this regard there would in all likelihood have been far more evidence thereof in the body of comment in the Proceeding.

26. Furthermore, since the Commission’s Rules specifically prohibit the re-administration of a previously failed test to an applicant¹³ and, as stated above¹⁴, “*since participating in the ARS is supposed to be a learning experience, it is inappropriate to insist that an applicant for an amateur license ‘know everything one could possibly know’ at the outset,*” we fail to see how any true harm could result from allowing an applicant to attempt to pass a failed element by taking a totally different version of the test.

27. The Petitioners “recommend an end to this practice,” stating that “*It is an unacceptable test procedure and would not be acceptable in any of our schools or certifying boards.*” (accompanied by an assertion, in a footnote in the Petition that: “*It is also an undue burden to a VE team, since allowing applicants to repeat failed tests over and over makes testing sessions longer and complicates record keeping.*”)

28. NCI responds to the Petitioners’ first statement by again reiterating its previous assertion that an amateur license is a “permit to learn and experiment” not a “graduation certificate”. Thus comparing amateur license tests to “*what would be acceptable (to) schools or certifying boards*” is, inescapably, an expression of a desire on the part of the Petitioners’ to hold applicants for amateur licenses to an unnecessarily and unjustifiable “graduation” standard.

¹³ Part 97.509(f) of the Commission’s Rules [47 C.F.R. §97.509(f)]

¹⁴ At para. 20, herein.

29. With regard to the “burden” the Petitioners allege “this practice” places on VE teams, we would simply note that, if “this practice” resulted in an intolerable burden on VE teams it likely would not be as prevalent as the Petitioners claim it to be and the NCVEC would have undoubtedly commented on the subject. NCI believes that the NCVEC’s silence on this “issue” is both noteworthy and indicative that the “problem” which the Petitioners allege exists is nothing more than a fiction.

30. Additionally, any alleged “burden” on the VE teams (if it, in fact, existed, which has not been established) should also, in all fairness, be balanced against the burden placed on applicants, who may fail an element by only a single question, by requiring them to “come back another day” when in many areas of the country they may have waited for some time and traveled a considerable distance to attend a testing session.

31. It appears to NCI that the Petitioners’ recommendation to add a rule allowing only one test attempt per VE session is unnecessary, was not supported to any significant degree in the body of comment, and we therefore find it virtually unavoidable to conclude that it represents an *“I’ve got mine, so now let’s make it as difficult and inconvenient as possible for newcomers to become amateurs.”* viewpoint on the part of the Petitioners, which does not comport well with the Commission’s stated intentions of making amateur radio more accessible.

32. The Petitioners also contend that “*The R&O states that telegraphy is a hindrance to those that might enter the Amateur Service or attempt to upgrade skills. Yet, the Amateur Extra Class, with the 20 wpm telegraphy exam, remains the fastest growing class of license after the Technician. The R&O is incorrect to say this is a barrier. It is only a barrier to unmotivated individuals.*”¹⁵

33. In response to these contentions, NCI maintains first that, in the body of comment in the Proceeding, there was considerable evidence that high speed Morse testing (both the 13 wpm and the 20 wpm tests) have presented a significant barrier to both entry into and advancement in license class in the ARS.

34. Secondly, while the Amateur Extra Class has seen some modest growth in numbers in recent years, that growth has been insignificant compared to the number of licensees entering the ARS via the “no-code” Technician class.

35. Thirdly, a very small percentage of Technicians upgraded to General or higher class licenses under the old rules due in large part to the Morse test requirements, as evidenced by the decline in numbers of General and Advanced class licensees during the same period. (In other words, virtually all of the growth in the Extra class has come at the expense of the General and Advanced classes.) **It is noteworthy that, by all reports, there has been a dramatic increase in applicants testing for upgrades since the Commission wisely decided to reduce the Morse test requirement to a single 5 wpm test for both General and Extra classes.**

¹⁵ The Wormser, Adsit, and Dinelli Petition, at 26.

36. Finally, and **most importantly**, the purpose of the tests for amateur licenses is **not** to measure “motivation,” “commitment,” or to enforce some form of “work ethic” on applicants for amateur licenses by forcing them to “jump through hoops” in the name of “tradition.” The **sole legitimate** purpose for amateur license tests is to determine that an applicant possesses sufficient knowledge of the Commission’s Rules and basic RF and electronic theory and safety practices to satisfy the Commission’s legitimate regulatory objectives.

37. The Petitioners also dredge up all of the predictable “Morse Myths” with respect to “how Morse skill is ‘vital’ to the ability of the ARS to adequately fulfill its emergency communications role,” “Morse gets through were nothing else will,”¹⁶ etc. ad nauseum.

38. These tired “justifications” for high-speed Morse testing have been bandied about for many years in the amateur community and were represented to some degree in the body of comment, but wisely rejected by the Commission.¹⁷

39. The Petitioners also attempt to assert that the additional privileges afforded to Amateur Extra Class licensees are minimal and that the Petitioners “*believe that the 5 wpm General Class is reasonable accommodation for those rare individuals who, for reason of a qualified disability, would have difficulty taking even an accommodated telegraphy exam at 20 wpm. For that reason, the use of code waivers for the Amateur Extra Class is now irrelevant under the R&O.*”

40. NCI finds the Petitioners’ elitist, “let them eat cake” attitude, inferring that “the disabled should be satisfied with (being limited to) a General class license” deplorable to say the least.

¹⁶ The quoted text in 37 is not an exact quote from the Petition, but rather a paraphrasing of the gist of the Petitioners’ assertions employed in the interest of condensing a large amount of generally false, exaggerated “justifications” for Petitioners’ desire to retain a 20 wpm Morse test as a requirement for an Amateur Extra class license.

¹⁷ FCC Report and Order 99-412, at 30 and 31.

41. Furthermore, the Petitioners ignore the fact that the merging of the “old advanced” and “old extra” classes into the new Amateur Extra class specified in the new Rules promulgated in the R&O results in there being a significant difference in privileges between the General class and the new Amateur Extra class.

42. To hold such significant portions of the HF bands “hostage” to a demonstration of high speed Morse proficiency is unjustifiable. The Commission acted correctly and wisely in eliminating the 20 wpm Morse test requirement for the Amateur Extra class license.

43. Finally, NCI emphatically contends that the retention of a 20 wpm Morse test for the Amateur Extra Class license, as proposed by the Petitioners, would have a tremendous negative effect on the willingness and motivation of lower class licensees to even attempt to upgrade, which would result in a significant loss of incentive for those licensees to learn the more advanced technical material which is truly important to the Commission’s stated goal of promoting technical advancement and excellence in the ARS.¹⁸

44. Since the Wormser, Adsit, and Dinelli Petition raises no new factual material not covered in the body of comment in the Proceeding and considered by the Commission in its decision (whether specifically cited in the text or footnotes of the R&O or not) and there was no procedural error on the part of the Commission in the Proceeding, there is no legitimate basis for the reconsideration of the new Rules promulgated in the R&O on the matters of testing requirements and procedures or Morse test speed requirements.

45. NCI, therefore respectfully requests that the Commission **DENY** the Wormser, Adsit, and Dinelli Petition for Partial Reconsideration.

III. THE PETITION OF MILLARD H. QUALLS

46. The Petition filed by Mr. Qualls seeks reconsideration of two aspects of the outcome of the Proceeding, as enumerated in Mr. Qualls' Petition at 3) and 4).

47. First, Mr. Qualls urges the maintenance of a distinction between the Technician class¹⁹, which, having not passed a 5 wpm Morse test has no HF privileges, and the Technician Plus class, which having passed a 5 wpm Morse test has (limited) HF privileges. Since this matter is addressed with considerably more completeness in the Petition of the ARRL, we will comment on this matter in a subsequent section of these Comments which addresses the Petition of the ARRL.

48. Mr. Qualls' second request is that the Commission reinstate a 20 wpm Morse test requirement (or alternatively a 12 wpm Morse test requirement) for the Extra class license.²⁰

49. In "support" of his request to reinstate a 20 wpm Morse test requirement for the Extra class license, Mr. Qualls cites a number of "facts" which NCI finds to be either totally inaccurate or totally irrelevant to the Commission's decisions as embodied in the R&O.

50. Mr. Qualls attempts to link the ability to "contribute to the advancement of the radio art" to Morse proficiency, asserting, without any citation of supporting factual data that; "*Experimentation with five watts of less output power better known as QRP is almost exclusively done using Morse Code. Skills learned in low power operation can be useful in Emergency Communications ...*"²¹

¹⁸ FCC Report and Order 99-412, at 30.

¹⁹ The Qualls Petition, at 3.

²⁰ The Qualls Petition in the "Conclusions."

²¹ The Qualls Petition, at 4.

51. NCI would respond to this assertion by observing first that “QRP” operation is a primarily a matter of operator preference, secondly that the same skills can be learned without relation to “QRP” operation, and finally that Morse is clearly not necessary for, or in today’s world often used for, emergency communications. Today’s emergency management agency “clients” desire tactical voice (SSB or FM) and reliable data communications support from amateurs, not a cadre of Morse operators, to support their communications needs.

52. Mr. Qualls also asserts that *“Using five watts or less power decreases the problems of RF exposure.”*²²

53. While this assertion, in isolation, is indisputable, two factors render it irrelevant in the context of Mr. Qualls’ Petition. First, there is no inherent, necessary link between low power operation and high speed Morse proficiency. Secondly, the Commission has already established RF Exposure guidelines which adequately address the issue of RF Exposure and have no connection whatsoever to Morse proficiency.

54. Mr. Qualls also asserts that *“Furthermore, the scatter Modes (ionospheric and meteor) moon and northern light reflection require moderately-high to high speed Morse code.”*²³

55. The above assertion by Mr. Qualls is indisputably technically inaccurate. Meteor scatter (and other “scatter” modes) have been worked for decades using non-Morse digital modes with great success (the US Forest Service’s “Snowtel” meteor scatter system and numerous military “tropo-scatter” systems being notable examples), “moonbounce” is frequently conducted using SSB (and more recently error-correcting digital modes).

²² The Qualls Petition, at 4.

²³ The Qualls Petition, at 4.

56. There is simply no reason, *other than a personal preference for Morse operation*, to prevent interested amateurs from applying the same sorts of techniques to their (entirely voluntary) use of these unique propagation modes.

57. In short, none of the assertions made by Mr. Qualls in item 4 of his Petition constitute a valid justification for maintaining high speed Morse testing for any class of license.

58. Next, Mr. Qualls attempts to “justify” high speed Morse requirements by citing the myth of “Morse as an ‘International Language’.”²⁴

59. Nothing could be farther from the truth. **Morse is not a language at all**, but simply an antiquated means of encoding alphanumeric characters into a series of OOK modulated pulses of an RF carrier, which a receiver translates into a series of beeping sounds, and nothing more. Lacking a common underlying natural language, only the most rudimentary and trivial of communications can take place (using the “Q-signals,” for example). Such “name, location, signal report, please QSL” exchanges can *hardly* be construed as being a significant factor in “promoting international goodwill.”

60. Mr. Qualls also raises the “specter” of “erosion of international relations,” based on the assertion that having a 5 wpm maximum Morse test requirement for the Extra class license will seriously interfere with US amateurs’ ability to operate in other countries when traveling.²⁵

²⁴ The Qualls Petition, at 5.

²⁵ The Qualls Petition, at 5.

61. This “further justification” for the reinstatement of a 20 wpm Morse requirement for the Extra class license simply falls on its face in light of current facts and events.

- a. US amateurs with only 5 wpm Morse proficiency (Technician Plus and above classes) are already accepted for full HF privileges as visitors in CEPT signatory nations.
- b. The UK, US, Sweden, Denmark, South Africa, Australia, and several other countries have already instituted, or announced the impending institution of, “full privilege” HF licensing with only a 5 wpm Morse requirement ... and more high-speed code test “dominoes” are falling on almost a monthly basis.
- c. The IARU Societies of both Germany and The Netherlands have resolved to support a change from 12 wpm to 5 wpm for CEPT Class 1 licenses. This will ultimately make it possible for 5 wpm US amateurs to obtain permanent reciprocal licenses in CEPT countries (though for the vast majority of traveling US amateurs, the current “full privilege visitor’s status” operation is entirely adequate.)
- d. It is widely expected that all Morse requirements will be deleted from the ITU Radio Regulations (S25.5) at a future WRC (in 2002 or 2003).

62. Additionally, while some U.S. amateurs do seek to operate internationally, the percentage is so small, relative to the total U.S. amateur population, as to fail to justify the retention of unnecessary high-speed Morse proficiency requirements which have had a tremendous adverse effect on the growth and progress of the Amateur Radio Service in the U.S.

63. Finally, in his Petition, Mr. Qualls states: *“The Commission states that it wants to eliminate unnecessary barriers to those desiring to enter the Amateur Radio Service. A noble idea, but reducing standards will not reduce barriers but will only weaken the service. My fifty years in Amateur Radio operating, training and other areas of education lead me to conclude that human beings respond to challenges. Lower the challenge and you cheapen the end result. When standards in any activity are lowered, apathy and decline will soon follow. My experiences tell me the only barriers are lack of motivation or unwillingness to study.”*

64. NCI finds absolutely no evidence whatsoever in the Commission’s decision in the R&O²⁶ to support the contention of the Petitioner that the effect of the new Rules promulgated in the R&O would result in the alleged “reducing (of) standards”.

65. Finally, and **most importantly**, the purpose of the tests for amateur licenses is **not** to measure “motivation,” “commitment,” or to enforce some form of “work ethic” on applicants for amateur licenses by forcing them to “jump through hoops” in the name of “tradition.” The **sole legitimate** purpose for amateur license tests is to determine that an applicant possesses sufficient knowledge of the Commission’s Rules, basic RF and electronic theory, and safety practices to satisfy the Commission’s legitimate regulatory objectives.

²⁶ FCC Report and Order 99-412, at 42.

66. Since the Qualls Petition raises no new factual material not covered in the body of comment in the Proceeding and considered by the Commission in its decision and there was no procedural error on the part of the Commission in the Proceeding, there is no legitimate basis for the reconsideration of the new Rules promulgated in the R&O on the matter of Morse test speed requirements.

67. NCI, therefore respectfully requests that the Commission **DENY** the Qualls Petition for Partial Reconsideration.

IV. **THE PETITION OF FRED A. DURAN**

68. The entire thrust of the Petition filed by Mr. Duran is to “... *upgrade former Class A licensees to the Amateur Extra Class license as a part of this R&O.*”²⁷

69. This matter was considered, as Mr. Duran admits in his Petition, in the course of the Rulemaking Proceeding, and the Commission declined to provide “automatic upgrades” to the new General class to several classes of existing licensees²⁸ as well as declining to provide “automatic upgrades” to former holders of the old “Class A” license.

70. It would be inequitable to provide such special consideration as Mr. Duran requests. Should Mr. Duran or others similarly situated desire to upgrade to Extra class, all that is necessary is for them to pass Element 4. If they cannot do so, they are, by definition, not qualified to hold the Extra class license.

²⁷ The Duran Petition, Page 1, para. 2.

²⁸ The ARRL, in its proposal for “Restructuring” had proposed that existing Novice, Technician, and Technician Plus licensees be automatically upgraded, without further testing, to the new General class. NCI, the NCVECs, and other commenters objected to the concept of granting privileges to individuals who had not taken the requisite tests and the Commission obviously concurred.

71. Since the Duran Petition raises no new factual material not covered in the body of comment in the Proceeding and considered by the Commission in its decision and there was no procedural error on the part of the Commission in the Proceeding, there is no legitimate basis for the reconsideration of the new Rules promulgated in the R&O on the matter of Morse test speed requirements.

72. NCI, therefore respectfully requests that the Commission DENY the Duran Petition for Partial Reconsideration. (After nearly 50 years, it is time for this matter to be put to rest and forgotten once and for all.)

V. **THE PETITION(S) OF STUART TEAZE**

73. The Teaze Petition(s) (two similar, but slightly different versions were apparently filed) seek to have the Commission create a new “introductory-level Communicator license class.”

74. At this juncture, this Petition should, in NCI’s view, have more properly have been labeled as a “Petition for Rulemaking” rather than a Petition for Partial consideration, since the subject was not a matter considered in the subject Rulemaking Proceeding.

75. There was no apparent consideration of such a class of license in the Notice of Proposed Rulemaking, whose objective was to eliminate unnecessary license classes rather than create new, superfluous ones.

76. Mr. Teaze’s proposal essentially seeks to create an extension of the Family Radio Service (“FRS”) under the guise of a “new class of amateur license.”

77. Given the extremely limited privileges (25 channels in the 70 cm band) and 2.5W ERP power limit, it is doubtful at best that this proposed license class would appeal at all to anyone with an interest beyond very short range “utility” communications ... which is just what the FRS was designed for. Under that assumption, there is no justification for creating a superfluous class of amateur license.

78. Additionally NCI takes exception to Mr. Teaze’s assertion that “... *the Technician Class license has now evolved into a beginning and ending point for most modern day Amateurs, who are mostly interested in VHF/UHF communications rather than HF communications. Incentive licensing has virtually been eliminated.*”²⁹

79. NCI’s position is that, before the new Rules which took effect on April 15, 2000, there was insufficient incentive for Technicians to undertake to upgrade, given the extremely limited HF privileges afforded the Technician Plus class and the unnecessary (and to many, distasteful) barrier presented by the 13 wpm Morse requirement for General class.

80. The facts do not support Mr. Teaze’s assertion that “... *most modern day Amateurs ... are mostly interested in VHF/UHF communications rather than HF communications.*” Nor do the facts support his contention that “*Incentive licensing has virtually been eliminated.*”

²⁹ The Teaze Petition, March 3, 2000 version, at para. 1.

80. The recent, *dramatic* increases in attendance at VE test sessions are clear and irrefutable proof that, with *reasonable* incentives, incentive licensing is alive and well and that many Technician and Technician Plus licensees are indeed *quite* interested in HF communications ... but that the incentive needs to be more than Morse code in tiny segments of the HF bands corrupted by high powered foreign broadcasting and a tiny sliver of SSB and data on 10m (a band that only supports reliable “beyond ground wave” communications for only a small fraction of the 11 year sunspot cycle.)

81. The Teaze Petition goes in exactly the opposite direction of the goal of the “Restructuring” Proceeding, which was to eliminate superfluous license classes and simplify the licensing/testing structure in the Commission’s Rules. It is also, in our view, based on flawed assumptions, both about the nature of the current Technician class license and the interest in HF communications of Technician licensees.

82. NCI reiterates its assertion that the Teaze Petition is merely an attempt to expand the FRS under the guise of “a new class of amateur license,” and we respectfully request that the Petition be DENIED.

VI. THE PETITION OF THE AMERICAN RADIO RELAY LEAGUE

83. In NCI’s view, the Petition of the American Radio Relay League (“ARRL”) is the **only** petition for Partial Reconsideration filed which meets the standards necessary to merit **any** reconsideration of the R&O and the resulting Rules changes in this Proceeding.

84. NCI finds the points addressed in the ARRL’s Petition to be sound, well thought out, and in the best interests of the Amateur Radio Service.

85. First, the issue of maintaining a differentiation in the Commission's records between those licensees with HF privileges and those without HF privileges is important to the amateur community as part of the Amateur Radio Service's efforts at "self-regulation."

86. While NCI has been told as a result of an e-mail inquiry to Mr. Hollingsworth of the Commission's Enforcement Division that, "*They (the Enforcement Division) will still be able to tell who has HF privileges and who doesn't.*", NCI still believes that the ARRL's concerns about the negative impact on "self-regulation" of effectively eliminating the amateur community's access to such information are real, valid, and well-founded concerns which merit reconsideration.

87. We are also inclined to agree with the ARRL's assessment that the "administrative burden" on the Commission and its staff of maintaining such differentiating information would be negligible ... and that it may, in fact, cost more to modify the existing database and software to eliminate the distinction than to simply leave that aspect of the system as it is.

88. NCI also agrees whole-heartedly with the ARRL's request for reconsideration of the Rules regarding credit for telegraphy examinations and we also ask that the Rules be standardized to provide that any amateur who provides proof of having at one time passed an FCC-recognized 5 wpm telegraphy examination (as an inherent element of a previously held amateur license, expired or unexpired) should receive credit for the Element 1 telegraphy examination.

89. NCI therefore fully supports the ARRL's Petition for Partial Reconsideration and requests that the Commission act favorably thereupon at the earliest possible time.

CONCLUSION AND RECOMMENDATIONS

To summarize,

- 1) No Code International objects to and finds baseless each and all of the Petitions for Partial Reconsideration filed by Wormser, Adsit, and Dinelli; Fred A. Duran; Millard H. Qualls; and Steward Teaze and asks respectfully that the Commission **DENY** them all without delay.
- 2) No Code International does, however, **fully support** the Petition for Partial Reconsideration filed by the American Radio Relay League and respectfully requests that the Commission **GRANT** the minor Rules changes requested therein at the earliest possible date, in the interest of preserving the amateur community's ability to contribute to self-enforcement and to assure that all similarly situated individuals are treated equally under the law with respect to credit for telegraphy examinations previously passed.

Respectfully submitted,
No-Code International



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CERTIFICATE OF SERVICE:

On May 2, 2000 I mailed a true and accurate copy of the attached document (described as “CONSOLIDATED COMMENTS OF NO CODE INTERNATIONAL IN OPPOSITION TO OR SUPPORT OF THE VARIOUS PETITIONS FOR PARTIAL RECONSIDERATION FILED IN THE ABOVE-CAPTIONED MATTER”) to the Petitioners:

Alan J. Wormser, N5LF 4805 Rustown Dr. Austin, TX 78727	Frederick V. Adsit, NY2V 117 Ferris Ave. Syracuse, NY 13224	Michael J. Dinelli, N9BOR 9423 Kolmar Ave. Skokie, IL 60076-1321
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Fred A. Duran – W4NKI 3704 Mountain View Lane Birmingham, AL 35223	Millard H. Qualls – K9DIY 2129 South Rogers Street Bloomington, IN 47403	Stewart Teaze 39501 Cedarwood Murrieta, CA 92563
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Christopher D. Imlay
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as required by Sections §1.47 and §1.405 of the Commission’s Rules

[47 C.F.R. §1.47, 47 C.F.R. §1.405]



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