

written statement of licensee consent *ante mortem*, or a written document provided by a relative of the club member *post mortem*.<sup>235</sup> QCWA avers that this additional option would allow its chapters to fulfill the expressed desire of a member *in memoriam*.<sup>236</sup>

50. *Discussion.* A majority of commenters agree with QCWA that a licensee should be able to express his or her desire as to which radio club receives their call signs *in memoriam*.<sup>237</sup> Two commenters state that it would be much easier for the licensee to make the bequest than for his or her relatives.<sup>238</sup> Those who oppose the amendment want the Commission to maintain control over call sign grants by requiring radio clubs to apply for such call signs.<sup>239</sup> One commenter opposes the petition on the basis that widespread retirement of scarce call signs would force future generations of amateur operators to use less efficient call signs.<sup>240</sup> Another commenter opposes the amendment because it may complicate legal issues regarding wills, remove the ability to monitor license classes, and may affect the Commission's policies on revoking call signs and licenses.<sup>241</sup>

51. We believe that the record supports proposing QCWA's amendment of our Rules. We also believe that the request is consistent with the filing priorities already incorporated in the vanity call sign system and the Commission's determination to maintain a fair and equitable vanity call sign assignment system.<sup>242</sup> Accordingly, we invite comment on QCWA's proposal.

52. Multiple Applications. *Background.* Under our Rules, an applicant may file multiple applications requesting a specific vanity call sign, along with the attendant filing fee for each application.<sup>243</sup> When multiple applicants request the same vanity call sign as their first choice, we use a lottery to select the first application to be processed.<sup>244</sup> Applicants who file multiple applications requesting the same vanity call sign as their first choice have a greater chance that we will select one of their applications in the lottery than applicants who file a single application. Applicants who file an application that we do not select in the lottery are eligible to request a refund of the filing fee.<sup>245</sup>

53. On September 10, 2002, Messrs. Edwards, Lynch, and Young requested that we amend Part 97 to prohibit acceptance of more than one application per applicant per vanity call

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<sup>235</sup> See *id.* at 3.

<sup>236</sup> See *id.* at 4.

<sup>237</sup> See, e.g., Dave Bowker Comments at 1, Jeffery Goodnuff Comments at 1, Sam R. Kelly Comments at 1, Collin Dvork Comments at 1.

<sup>238</sup> Dave Bowker Comments at 1, Jeffery Goodnuff Comments at 1.

<sup>239</sup> See, e.g., Harold Tate Comments at 1, Steven E. Matda Comments at 1.

<sup>240</sup> See, e.g., Ken Alan Comments at 1.

<sup>241</sup> See, e.g., Steve Bryant Comments at 1.

<sup>242</sup> See Amendment of the Amateur Service Rules to Implement a Vanity Call Sign System, *Report and Order*, 10 FCC Rcd 1039, 1039 ¶ 4 (1995).

<sup>243</sup> See 47 C.F.R. § 97.19(b).

<sup>244</sup> See 47 C.F.R. § 97.3(a)(11).

<sup>245</sup> See 47 C.F.R. § 1.913.

sign.<sup>246</sup> Petitioners explain that this restriction will ensure that all applicants receive an equal chance to receive the requested call sign.<sup>247</sup> In support of this request, petitioners note that for very desirable call signs, such as the “W” or “K” 1 X 2 call signs,<sup>248</sup> and the 2 X 1 call signs,<sup>249</sup> there are almost always multiple applicants for a single call sign,<sup>250</sup> and often those who file multiple applications are successful in being awarded the desired call sign in the random selection process.<sup>251</sup> Thus, petitioners state that the Commission’s practice of allowing an applicant to file multiple applications has created a *de facto* lottery which favors wealthy applicants.<sup>252</sup>

54. *Discussion.* When the Commission established the vanity call sign system in 1995,<sup>253</sup> the license process permitted an applicant to file more than one application requesting a particular call sign, but very few did so. While there is no shortage of call signs that amateur service licensees may request as a vanity call sign, many licensees have expressed a strong preference for having a W or K 1 X 2 format call sign assigned to their station. Call signs of this format, however, are almost all assigned and seldom become available for assignment to other stations. Due to the preference of licensees for a W or K 1 X 2 format call sign we usually receive numerous applications when one of these call signs becomes assignable. The scarcity of these call signs persuades us to consider revising the rules to promote our goals of equity and fairness. We note that limiting the acceptance of applications to one application per applicant per vanity call sign will not eliminate refunds of fees for those submitting multiple applications for the same call sign. We request comment on this proposal.

## 2. Special Event Call Sign System.

55. *Background.* The special event call sign system<sup>254</sup> allows the licensee of an amateur station, when transmitting in conjunction with an event of special significance to the amateur service community, to select a call sign from a list of 750 “1 X 1” call signs.<sup>255</sup> A licensee may

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<sup>246</sup> See Marvin W. Edwards, Frank A. Lynch, C. Norman Young, Jr., Petition For Rule Making at 1 (filed Sept. 10, 2002) (Edwards Petition). The Edwards Petition was placed on public notice on September 27, 2002. See *Public Notice*, Report No. 2578 (rel. Sept. 27, 2002).

<sup>247</sup> See *id.*

<sup>248</sup> A “1 X 2” call sign has a one letter prefix (K, N, W) and a two letter suffix (AA-ZZ) separated by a numeral 0-9 (for example W1AW)

<sup>249</sup> A “2 X 1” call sign has a two letter prefix (AA-AL, KA-KZ, NA-NZ, WA-WZ) and a one letter suffix separated by a numeral 0-9 (for example KL1B).

<sup>250</sup> See Edwards Petition at 2.

<sup>251</sup> See *id.* at 3.

<sup>252</sup> See *id.* at 6

<sup>253</sup> See Amendment of the Amateur Service Rules to Implement a Vanity Call Sign System, *Report and Order*, PR Docket No. 93-305, 10 FCC Rcd 1039 (1995), *Memorandum Opinion and Order*, 10 FCC Rcd 11135 (1995), and *Second Memorandum Opinion and Order*, 11 FCC Rcd 5283 (1996).

<sup>254</sup> See Amendment to the Amateur Service Rules Including Amendments for Examination Credit, Eligibility for a Club Station License, Recognition of the Volunteer Examiner Session Manager, a Special Event Call Sign System, and a Self-Assigned Indicator in the Station Identification Process, *Report and Order*, 12 FCC Rcd 3804 (1997).

<sup>255</sup> The format of special event call signs is limited to call signs that have the single letter prefix K, N or W, followed by a single numeral 0 through 9, followed by a single letter except the letter X (for example K1B).

substitute the special event call sign for the call sign shown on the station license grant while the station is transmitting.<sup>256</sup> The ARRL requests that we amend our Rules<sup>257</sup> to add to the special event call sign system certain call sign blocks that designate territories and possessions that have no specified mailing addresses.<sup>258</sup> These territories and possessions include, among others, Kingman Reef, Baker and Howland Islands, and Wake Island in the Pacific Ocean, and the islands of Navassa and Desecheo in the Caribbean Sea.<sup>259</sup> The ARRL notes that each of these locations has a call sign prefix associated with it in the sequential call sign system, but no call sign may be assigned to any station because there is no mailing address.<sup>260</sup> For this reason, the ARRL asserts that these call sign blocks are not used.<sup>261</sup>

56. In support of this request, the ARRL states that amateur station operation from uninhabited United States territories and possessions for avocational interest, in support of a scientific expedition, and radiosporting is an event of special significance to the amateur service community and, therefore, a special event within the meaning of the special event call sign program.<sup>262</sup> The ARRL also states that while a 1 X 1 call sign indicates the station is participating in a special event, these call signs do not denote that the location of the station is in one of these United States territories or possessions, or denote the location of certain types of special events.<sup>263</sup> Two commenters support the ARRL's request.<sup>264</sup> One commenter opposed the request by asserting that the call signs available to the special event call sign system are sufficient to address the need.<sup>265</sup>

57. *Discussion.* We do not believe that the requested rule amendment is necessary because there is no requirement in the rules that a station transmit its location or denote that it is transmitting from a territory or possession when it does so. As a convenience to the amateur radio operators, however, our Rules already provide various options amateur radio operators may use to indicate that the station is transmitting from a particular US territory or possession. Specifically, Section 97.119(c) permits the control operator of a station to include one or more indicators before, after, or both before and after, the call sign.<sup>266</sup> We note that self-assigned indicators that control operators routinely use include the prefix reserved in the sequential call sign system for the offshore location, the name of the island, an *Islands On The Air* reference number, and grid square designators. Self-assigned indicators have been used successfully by many FCC and foreign licensees and have been accepted by other amateur radio operators. In addition, our Rules provide for the use of special event call signs to inform other stations of

<sup>256</sup> See 47 C.F.R. § 97.3(a)(11).

<sup>257</sup> See *id.*

<sup>258</sup> See ARRL Petition at 16-18

<sup>259</sup> See *id.* at 17.

<sup>260</sup> See *id.* citing 47 C.F.R. § 97.19(d)(4).

<sup>261</sup> See *id.* at 17.

<sup>262</sup> See *id.* at 16-17.

<sup>263</sup> See ARRL Petition at 17.

<sup>264</sup> See Frank A. Lynch Comments of at 1 and Rich Eyre-Eagles Comments at 1.

<sup>265</sup> See Michael Bucklaew Comments at 2 (citing the use of the special event call sign K5K by stations transmitting from Kingman Reef).

<sup>266</sup> See 47 C.F.R. § 97.119(c).

transmissions from locations without a mailing address.<sup>267</sup> In this regard, we note there is no shortage of special event call signs and that many licensees have successfully used this alternative.<sup>268</sup>

#### D. Field Repair Requirements for Equipment.

58. *Background.* On February 11, 2002, Mr. Nickolaus E. Leggett requested amendment of the amateur service rules to require all commercially-built amateur radio equipment to be field-repairable.<sup>269</sup> In support of his request, Leggett states that most commercially-built amateur radio systems are difficult to repair in the field due to a very densely packaged structural design that is optimized for machine assembly thereby making it extremely difficult to access, diagnose, and replace parts in the field.<sup>270</sup> The petitioner also requests the rules to include specific equipment design requirements.<sup>271</sup>

59. *Discussion.* We received over eighty comments to the Leggett Petition. All but three commenters oppose the amendment explaining that the petition is vague;<sup>272</sup> that there is no need to regulate the reparability of amateur radio equipment;<sup>273</sup> that commercially produced

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<sup>267</sup> See 47 C.F.R. § 97.3(a)(11). Allowing call sign blocks that denote specific offshore locations in the sequential call sign system to also be used in the special event call sign system, may result in licensee confusion. We note that Hawaii, Alaska, and geographic locations in the Caribbean and Pacific Insular Areas where the Commission regulates the amateur service, are designated as "entities" by the ARRL for operating award purposes. As a convenience to the amateur service community, a station whose licensee has a mailing address at one of these locations is permitted a call sign with a prefix denoting the ARRL entity or "country" Although it is not currently possible to obtain a mailing address for certain of these ARRL entities, small blocks of call signs are provided for amateur operators who, while operating their stations from such locations, use these call signs as self-assigned indicators to announce their unique location to other amateur operators.

<sup>268</sup> We note that recently K1B was used from Baker Island, K2G from Guam, K5K from Kingman Reef, K7K from Kure Island, K8O from Ofu Island, American Samoa, and K8T from Tutuila Island, American Samoa.

<sup>269</sup> See Mr. Nickolas E. Leggett Petition For Rule Making at 4 (filed Nov. 21, 2001) (Leggett Petition). The Leggett Petition was placed on public notice on April 16, 2002. See Public Notice, Report No. 2543 (rel. Apr. 16, 2002). A list of commenters is presented in Appendix B.

<sup>270</sup> See *id.* at 2.

<sup>271</sup> The Leggett Petition recommends the following as examples of design requirements that should be mandated by the Commission: field-replaceable modules or circuit boards; required minimum spacing of components on circuit boards for access and replacement; test points and test jacks for measuring voltages, currents, and wave forms; light-emitting diode (LED) displays of bus signals on digital systems; chassis with access doors and removable shielding sections for radio frequency probing and field repair without removal of all the enclosures; removable integrated circuits (ICs) mounted in sockets; availability of spare ICs and other special components used in amateur radio equipment, and availability of service manuals and fully-detailed schematic diagrams of the amateur radio equipment (including specifications of the normal voltages, currents, and wave forms at the equipment test points), as examples of design requirements that could be mandated. Leggett Petition at 4-5

<sup>272</sup> See, e.g., Neil J. Nitzberg Comments at 1, Randall Winchester Comments at 1, Fred C. Kelly, III, Comments at 1

<sup>273</sup> See, e.g., Paul Hadley Comments at 1, Willis Whatley Comments at 1, Randall Winchester Comments at 1, John Flynn Comments at 1.

equipment already is repairable in some manner;<sup>274</sup> that adopting the requirements requested in the petition would result in less reliable equipment;<sup>275</sup> that those interested in field repairability can buy kits,<sup>276</sup> and having a backup radio available can solve the problem of field repairability of equipment.<sup>277</sup>

60. Based on our review of the record, we are not persuaded that proposing the requested rule amendment is warranted. From the comments received, there appears to be strong sentiment within the amateur radio community against requiring field-repairable equipment. Because we are particularly concerned that the requested rule is vague and would impose an apparently unnecessary requirement on manufacturers, we believe that this request, if adopted, would reduce the availability and reliability of commercially produced amateur radio equipment. We believe that such a result is not in the public interest and, for this reason, we deny the petition.

#### E. Unlicensed Operation in the 420-450 MHz Band.

61. *Background.* In the United States, the 420-450 MHz frequency band is allocated to government radiolocation services on a primary basis and the amateur service on a secondary basis.<sup>278</sup> Part 95 Personal Radio Services are not authorized in this frequency band.<sup>279</sup> On January 2, 2002, Dr. Michael C. Trahos (Trahos Petition) requested amendment of the amateur service rules and the Personal Radio Service rules to authorize a service similar to the Family Radio Service (FRS) in the 420-450 MHz band.<sup>280</sup> In support of his request, the petitioner states that in 1998, Europe adopted a 446 MHz Personal Mobile Radio (PMR) Service, PMR 446, that is similar to the FRS, except that PMR 446 utilizes eight channels between 446.0 MHz and 446.1 MHz.<sup>281</sup> The petitioner alleges that individuals are illegally importing PMR 446 radios into the U.S.<sup>282</sup> Moreover, he asserts that there appears to be no effort to stop this illegal importation or use of these PMR 446 radios in the US.<sup>283</sup> Thus, the petitioner requests that we legalize the current use of PMR 446 radios by visiting non-US resident foreign nationals on a license exempt

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<sup>274</sup> See, e.g., William C. White Comments at 2, Rich Eyre Comments at 1, Jay D. Berringer Comments at 2, Randall Winchester Comments at 1, Ed Bodnar Comments at 1, Charles Johnson Comments at 1, Carl R. Stevenson Comments at 3, Larry L. Ledlow, Jr., Comments at 1.

<sup>275</sup> See, e.g., Thomas P. Currie Comments at 1, Rickey D. Pierce Comments at 1, Howard Stickly Comments at 1, Kerry Steffens Comments at 1, Hans Brakob Comments at 1, Mark Richards Comments at 1, John Getz Comments at 1, W. Lee McVey Comments at 1, Phillip Brittenham Comments at 1, David Reynolds Comments at 1.

<sup>276</sup> See, e.g., Marc Pohm Comments at 1, Christopher J. Cieslak Comments at 2, Larry L. Ledlow, Jr., Comments at 1.

<sup>277</sup> See, e.g., Robert Boehmer Comments at 1, Francis Bradley Comments at 1, Richard Thommason Comments at 1, Vincent Mastroglavanni Comments at 1.

<sup>278</sup> See 47 C.F.R. § 2.106.

<sup>279</sup> See *id.*

<sup>280</sup> See generally Trahos Petition. The Trahos Petition was placed on public notice on August 8, 2002. See Public Notice, Report No. 2567 (rel. Aug. 8, 2002). A list of commenters is presented in Appendix B.

<sup>281</sup> See *id.* at 5.

<sup>282</sup> See *id.* at 6.

<sup>283</sup> See *id.*

secondary basis to amateur service operations.<sup>284</sup>

62. *Discussion.* We received over 120 comments were received, each strongly opposing the Trahos Petition. Commenters generally argue that the 420-450 MHz band is allocated to the U.S. government radiolocation services on a primary basis and should not be authorized to the unlicensed personal radio services.<sup>285</sup> The ARRL and others oppose the requested rule amendments on the basis that unlicensed operation on 446.0-446.1 MHz is contrary to the fundamental regulatory structure of the amateur service,<sup>286</sup> and would cause interference to amateur service repeaters and other amateur service stations.<sup>287</sup> Other commenters state that the requested rule revision is unnecessary because visitors can purchase inexpensive FRS radios while visiting the U.S., thereby keeping unlicensed operators on unlicensed frequencies.<sup>288</sup> In addition, some commenters aver that unlicensed operation by foreign visitors to the U.S. can be addressed by educating such visitors as to our Rules through foreign consular offices and the internet.<sup>289</sup>

63. As stated previously, in the United States, the 420-450 MHz frequency band is allocated to government radiolocation services on a primary basis and the amateur service on a secondary basis.<sup>290</sup> Part 95 Personal Radio Services are not authorized in this frequency band.<sup>291</sup> Therefore, absent a new allocation in the 420-450 MHz frequency band for an unlicensed personal radio service, we can not propose revising the rules as requested. We do not believe that a new allocation is necessary because alternative services exist to meet the communication needs of such individuals. For example, visitors may use FRS units, Multi-Use Radio Service units,<sup>292</sup> and communications devices approved under Part 15 of our Rules to meet their need for personal communications. Furthermore, we agree that an effective method of curtailing illegal personal use by foreign visitors can be achieved through awareness programs and other educational material offered via foreign consular offices and the Internet. Therefore, we decline to seek comment on the Trahos Petition.

#### F. Station Identification.

64. *Background.* Our Rules generally require each amateur station to transmit its assigned call sign on its transmitting channel.<sup>293</sup> Specifically, the station must transmit the call

<sup>284</sup> See *id.*

<sup>285</sup> See, e.g., Todd Ellis Comments at 2, Tim Osborne Comments at 1.

<sup>286</sup> See, e.g., ARRL, Inc. Comments at 3.

<sup>287</sup> See, e.g., ARRL, Inc., Comments at 4, Phillip E. Glasso Comments at 2, Danny L. Musten Comments at 1, BJ Jenkins, Sr., Comments at 1, Ken Meyer at Comments 1, James A. Pierson, Jr., Comments at 1, JR Bayford Comments at 1.

<sup>288</sup> See, e.g., Susan Swiderski Comment at 1, Don Byrer Comments at 1, Lee Hendrickson Comments at 1, Tim Osborne Comments at 1, ARRL Comments at 5.

<sup>289</sup> See Todd Ellis Comments of at 2, Philip E. Glasso Comments at 3.

<sup>290</sup> See 47 C.F.R. § 2.106.

<sup>291</sup> See *id.*

<sup>292</sup> See 47 C.F.R. Part 95 Subpart J.

<sup>293</sup> See 47 C.F.R. § 97.119(a). There are two exceptions to this general rule. We do not require space stations and telecommand stations to transmit their assigned call sign on their transmitting channel at the end of each communication and at least every ten minutes during a communication.

sign with an emission authorized for the transmitting channel in one of four ways, including a CW emission<sup>294</sup> or a phone emission in the English language.<sup>295</sup> A phone emission includes tone-modulated telegraphy (MCW) for the purpose of performing the station identification procedure.<sup>296</sup>

65. In its petition, the ARRL requests that we amend the definition of a CW emission in Section 97.119(b)(1)<sup>297</sup> to include MCW to permit an amateur station operating as a repeater<sup>298</sup> to identify itself using an MCW emission, in addition to a CW emission type.<sup>299</sup> The ARRL states that because phone emissions include MCW for the purpose of performing the station identification procedure, repeater station identification using an MCW emission type should be authorized similar to CW emission types.<sup>300</sup> ARRL also states that this amendment would allow a repeater to identify using an MCW emission type. Two commenters supported the ARRL's request.<sup>301</sup>

66. *Discussion.* As an initial matter, we note that our Rules authorize an amateur station operating as a repeater to transmit a phone emission on any channel on which a repeater may transmit.<sup>302</sup> Further, a station may transmit its call sign using a phone emission, which includes a MCW emission when it is transmitted for the purpose of identifying the station. Therefore, because our Rules permit an amateur station operating as a repeater to identify the station using an MCW emission, we find no reason to revise Section 97.119(b)(2) as requested by the ARRL.

#### G. Amateur Station Operation on the 902-928 MHz Band

67. *Background.* Our Rules set forth a geographic restriction on amateur station operation in the 33 cm band (902-928 MHz) in certain areas of Colorado and Wyoming.<sup>303</sup> In 1990, the Commission waived this rule to authorize amateur stations in that restricted area to transmit in specified frequency segments of the 33 cm band.<sup>304</sup> Under the terms of this waiver, this authorization was for an indefinite time period.<sup>305</sup> The ARRL requests that we incorporate the terms of this waiver in the Rules so that the operating limitations in Colorado and Wyoming

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<sup>294</sup> See n. 27, *supra*.

<sup>295</sup> See 47 C.F.R. § 97.119(b).

<sup>296</sup> See 47 C.F.R. § 97.3(c)(5).

<sup>297</sup> See 47 C.F.R. § 97.119(b)(1).

<sup>298</sup> A "repeater" is an amateur station that simultaneously retransmits the transmissions of another amateur station on a different channel or channels.

<sup>299</sup> See ARRL Petition at 15.

<sup>300</sup> See *id*.

<sup>301</sup> See Michael Bucklaew Comments at 1 and Frank A. Lynch Comments at 1.

<sup>302</sup> See 47 C.F.R. §§ 97.205(b), 97.305(c).

<sup>303</sup> See 47 C.F.R. § 97.303(g)(1).

<sup>304</sup> See Waiver of Parts 2 and 97 of the Rules Concerning Frequency Sharing Requirements Applicable to the Amateur Service in Portions of Colorado and Wyoming, *Order*, 5 FCC Rcd 3041 (1990). (Amateur stations may transmit on the 902.0-902.4 MHz; 902.6-904.3 MHz; 904.7-925.3 MHz; 925.7-927.3 MHz, and 927.7-928 MHz frequency segments.)

<sup>305</sup> See *id*.

may be known to all amateur stations.<sup>306</sup>

68. *Discussion.* We agree that placing these operating limitations in our Rules would increase their availability to all amateur station licensees. Accordingly, we believe that inserting these limitations into our Rules is a reasonable manner to make these limitations known. For these reasons, we propose to amend Section 97.303(g)(1) as the ARRL requests.

#### H. Color Coded Amateur Radio Licenses

69. *Background.* Section 97.5 of our Rules sets forth the various types of amateur service station license grants we issue.<sup>307</sup> We print amateur service license documents for the different types of station licenses and the different classes of operator licenses on the same license form using an automated process. On December 10, 2002, Mr. Dale E. Reich asked that we issue color-coded amateur radio license documents.<sup>308</sup> Specifically, the petitioner requests that we print Advanced and Amateur Extra Class operator licenses on blue paper stock, General Class operator licenses on Federal Gold paper stock, and Technician Class operator licenses on red paper stock.<sup>309</sup> Mr. Reich states that there is no real advantage to his request other than it would be a positive image maker for the amateur radio community.<sup>310</sup> The petitioner also requests that we continue to print other amateur service license documents on the paper stock we presently use.<sup>311</sup>

70. *Discussion.* As an initial matter we note that whether an individual is an amateur service licensee and the class of operator privileges a person has qualified for is determined only by entries in our Universal Licensing System database.<sup>312</sup> Possession of a license document is not necessary for an individual to be an amateur service licensee or determinative of an individual's class of operator license. For this reason, we believe the color-coding of license documents is unnecessary. We also will not propose this change because we note that, if granted, color-coded license documents would obligate us to maintain additional paper stocks to print amateur service licenses, thereby increasing our cost of administering the amateur service. This change also would adversely affect our automated license printing system because we could not print licenses in a continuous batch but rather we would have to print them in groups based on the color of the paper stock to be used, thereby further increasing the cost of administering the amateur service. The petitioner presents no reason to issue color-coded licenses. We also do not believe this change is necessary or serves any significant purpose. Accordingly, we find no reason to revise the rules as requested by Mr. Reich and we deny this petition.

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<sup>306</sup> See ARRL Petition at 18-19.

<sup>307</sup> See 47 C.F.R. § 97.5.

<sup>308</sup> See Mr. Dale E. Reich Petition For Rule Change at 1 (filed Dec. 10, 2002) (Dec. 10, 2002, Reich Petition).

<sup>309</sup> See *id*

<sup>310</sup> See *id*

<sup>311</sup> See *id*.

<sup>312</sup> See Amendment of the Amateur Service Rules to Change Procedures for Filing an Amateur Service License Application and to Make Other Procedural Changes, *Order*, 9 FCC Rcd 6111 (1994).

## I. Instant Licensing

71 *Background.* When an individual initially qualifies for an amateur radio license, the volunteer examiners (VEs) submit the examinee's application to the coordinating volunteer examiner coordinator (VEC) who then electronically transmits the applications to us.<sup>313</sup> After we receive the file from the VEC, we revise the amateur service database to grant the examinee a station license and to show that the examinee has qualified for a particular class of amateur service operator license. When an entry for a person appears in the amateur service database, that person may be the control operator of an amateur station.<sup>314</sup> On December 4, 2002, Mr. Dale E. Reich requested that we amend the amateur service rules to allow VEs to issue an "instant temporary license" to examinees who qualify for an amateur radio operator license for the first time.<sup>315</sup> In support of this request, the petitioner states that issuing an "instant temporary license" to successful examinees would allow these individuals an option to gain rapid access to amateur radio upon passing the examinations.<sup>316</sup>

72. *Discussion* As an initial matter, we note that the Commission considered "instant licensing" of amateur radio operators when it established the VEC system.<sup>317</sup> Specifically, the Commission noted that it does not permit private organizations to issue temporary or permanent licenses.<sup>318</sup> We note that since that time the Commission has not received statutory authority to allow VEs or VECs to issue amateur service operator or station licenses.<sup>319</sup> We also note that technological changes have resulted in the VECs filing applications electronically with the Commission thereby allowing individuals who have qualified for their first amateur service license, the only individuals who could benefit from instant licensing,<sup>320</sup> to be on the air within a few days of passing their examination. We do not believe that this minimal wait is unreasonable, especially in light of the obligation of the VECs to screen collected information, verify the VEs certifications, resolve all discrepancies, and perform other duties required of them.<sup>321</sup> We conclude the petitioner presents no new information that warrants changing the rules. Accordingly, we find no reason to revise the rules as requested by Mr. Reich and we deny this petition.

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<sup>313</sup> See 47 C.F.R. §§ 97.509(m), 97.519(b).

<sup>314</sup> See 47 C.F.R. § 97.7.

<sup>315</sup> See Mr. Dale E. Reich Petition For Rule Change at 1 (filed Dec. 4, 2002) (Dec. 4, 2002, Reich Petition).

<sup>316</sup> See *id.* at 2.

<sup>317</sup> See Amendment of Parts 0, 1, and 97 of the Commission's Rules to Allow the Use of Volunteers to Prepare and Administer Operator Examinations in the Amateur Radio Service, *Notice of Proposed Rulemaking*, PR Docket No. 83-27, 48 Fed. Reg. 8090 (1983).

<sup>318</sup> See *id.* at ¶ 21.

<sup>319</sup> See 47 U.S.C. § 154 (f)(4)(A).

<sup>320</sup> An licensee who has qualified for a higher class of operator license is authorized to exercise the rights and privileges of the higher class operator license until final disposition of the application or until 365 days after the passing of the examination. See 47 C.F.R. § 97.9(b).

<sup>321</sup> See 47 C.F.R. § 97.519(b).

## J. Space Station Launch Notification

73. *Background.* Any amateur station may be a space station.<sup>322</sup> Moreover, the license grantee of a space station must file with the Commission written pre-space station notifications twenty-seven and five months before initiating space station transmissions, seven days following initiation of these transmissions, and no later than three months after termination of these transmissions.<sup>323</sup> These notifications are required so that the ITU Radiocommunications Bureau may be informed of space stations in the amateur-satellite service when these stations operate in bands shared with other services.<sup>324</sup>

74. On December 2, 2002, the Radio Amateur Satellite Corporation (AMSAT) requested that we amend our Rules to require the filing of pre-space station notification information within thirty days after obtaining a launch commitment rather than twenty-seven and five months before initiating space station transmissions.<sup>325</sup> In support of this request, AMSAT argues that, as a practical matter, amateur service licensees can not comply with the twenty-seven month notification requirement because secondary payload launch commitments, which amateur-satellite service space stations invariably fly as, rarely become available twenty-seven months or more in advance.<sup>326</sup> Petitioner also states that the present notification requirements are an unnecessary burden both for amateur service licensees and the Commission because they result in the Commission receiving a request to waive all or part of Section 97.207(g) every time an amateur-satellite service space station is launched.<sup>327</sup> In order to continue notification to others in case harmful interference occurs, however, AMSAT states that a more practical procedure would be to require the filing of pre-space station notification information within thirty days after obtaining a launch commitment.<sup>328</sup> Finally, AMSAT asserts that amateur service licensees can file additional information if significant changes occur in spacecraft design or launch parameters between the original filing and launch.<sup>329</sup>

75. *Discussion.* We received twenty six comments in response to the AMSAT Petition. All of the commenters support the amendment explaining that the present requirement can not be met,<sup>330</sup> that the twenty-seven month notification requirement is excessively long,<sup>331</sup> and that the requested amendment would eliminate the need for the Commission to process waiver requests.<sup>332</sup>

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<sup>322</sup> See 47 C.F.R. § 97.207(a).

<sup>323</sup> See 47 C.F.R. § 97.207(g), (h), (i).

<sup>324</sup> See *Radio Regulations* No. 25.11

<sup>325</sup> See Radio Amateur Satellite Corporation Petition For Rule Making at 2 (filed December 2, 2002) (AMSAT Petition). The petition was placed on public notice on December 18, 2002. See *Public Notice*, Report No. 2589 (rel. Dec. 18, 2002). A list of commenters is presented in Appendix B.

<sup>326</sup> *Id.*

<sup>327</sup> *Id.*, 47 C.F.R. § 97.207(g).

<sup>328</sup> *Id.*

<sup>329</sup> *Id.*

<sup>330</sup> See Stephen Michael Kellett Comment at 1.

<sup>331</sup> See, e.g., Mark Ryan Comment at 1, James E. Whedbee Comments at 1, Terry L. Nixon Comments at 1, Nickolaus E. Leggett Comments at 1, ARRL, Inc., Comments at 2-3.

<sup>332</sup> See, e.g., James E. Whedbee Comments at 1, Howard DeFelice Comments at 1,

We agree that because amateur radio space stations are secondary payload launch commitments and these commitments rarely become available twenty-seven months or more in advance, it is not possible for licensees to meet a twenty-seven month notification requirement. We also believe that a rule that we routinely waive because it cannot be met serves no useful purpose. Additionally, we note that the intent of notification, to inform others of transmissions in case harmful interference occurs, can be satisfied by using other benchmarks for the dates notification must be submitted.

76. We will not propose to require that notification information be submitted within thirty days after obtaining a launch commitment as AMSAT requests because we do not believe that thirty days after a launch commitment is obtained provides adequate time for us to review the notification and make a determination as to its sufficiency. Rather, we propose to use the date the space station launch vehicle is determined and the date integration of the space station into the launch vehicle occurs as dates for determining when notification must be submitted. Specifically, we propose to require that pre-space notification be submitted within 30 days after the launch vehicle is determined, but no later than 90 days before the space station is integrated into the launch vehicle. In this regard, we note that the date a launch vehicle is determined usually occurs well before a launch commitment is obtained. We believe that requiring a licensee to provide notification within thirty days after the launch vehicle is determined and no later than 90 days before integration of the space station into the launch vehicle provides adequate time before launch to make changes in the space station if we find that the notification is deficient in some material way. We also propose to consolidate all notification requirements in one paragraph of the Section 97.207. We request comment on these proposals.

77. We also seek comment on what actions the Commission should take if it is presented with an orbital debris mitigation plan that raise concerns as to the debris mitigation practices of an amateur service space station.<sup>333</sup> In this regard, we note that the submission of a plan that is deficient in some way might require that the Commission take further action, such as modification of the licensee's station license grant, in connection with that space station.<sup>334</sup> In light of this concern, we also seek comment on whether we should require an affirmative prior approval of amateur service space station launches and operations, and on whether there are alternative processes, such as the use of licensing procedures based under or upon procedures in Part 25 of our rules, that may help to address our and amateur radio operators' concerns with the timing of amateur space station notification filings.

#### **K. Examination Credit for Merit and Service**

78. *Background.* When a person takes an examination for an amateur radio operator license, our Rules require that the VE must give that person examination credit for certain examination elements if that person can show he or she holds or has held certain amateur radio license grants, other Commission licenses, or certain other documents.<sup>335</sup> No credit is granted based on length of licensure, operating or participation activities, or any other service activities a licensee may have performed.

<sup>333</sup> See *Mitigation of Orbital Debris*, Notice of Proposed Rulemaking, IB Docket No. 02-34, 17 FCC Rcd 5586 (2002). The Commission has proposed to adopt orbital debris mitigation requirements for Commission-authorized space stations, including space stations in the amateur radio service. A debris mitigation showing would be required in connection with the notification.

<sup>334</sup> See, e.g., 47 CFR § 97.27.

<sup>335</sup> See 47 C.F.R. § 97.505.

79. On November 14, 2002, Mr. Dale E. Reich requested that we amend our Rules to allow VEs to give examination credit to Novice and Advanced Class licensees for length of licensure and merit.<sup>336</sup> Specifically, petitioner requests that we authorize VEs to give Novice and Advanced Class licensees examination credits necessary for them to qualify for a Technician or Amateur Extra Class operator license, respectively, if those licensees have been licensed twenty or more years or who have been without a serious FCC rule violation.<sup>337</sup> In support of this request, Mr. Reich states that we should allow some of the remaining Novice and Advanced Class licensees to advance to the next higher class operator license without examination because more difficult examinations were required of licensees in the past.<sup>338</sup>

80. *Discussion.* We received over one hundred and seventy comments in response to the Reich Petition. The majority of commenters oppose the petition explaining that the request is vague;<sup>339</sup> that upgrading from the Novice and Advanced Class operator licenses to the Technician or Amateur Extra Class is not difficult;<sup>340</sup> that length of licensure or credit for public service is unrelated to whether a person qualifies for the operating privileges of a higher class operator license;<sup>341</sup> and that the proposal would impose unreasonable administrative and record keeping burdens on VEs and VECs.<sup>342</sup>

81. Based on our review of the record, we are not persuaded that proposing the requested rule amendment is warranted. As an initial matter, we note that the issue of whether to upgrade Advanced Class licensees who had been licensed more than twenty years to the Amateur Extra Class operator license was considered but declined when the Commission simplified the amateur service license structure in 1999.<sup>343</sup> This decision was influenced by the request of other commenters in that proceeding that current licensees not receive additional privileges without passing the required examination elements.<sup>344</sup> From the comments received, there still appears to be strong sentiment within the amateur radio community against allowing examination credit based on length of licensure. The petitioner presents no new information or reason that causes us to change our view. Additionally, we are particularly concerned that length of licensure in and of itself does not show that a licensee possesses the operational and technical qualifications of a higher class operator license.

82. Likewise, we do not believe that operating without a serious FCC rule violation shows that a licensee necessarily possesses the operational and technical qualifications of a higher

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<sup>336</sup> See Mr. Dale E. Reich Petition For Rule's Change at 1 (filed Nov. 14, 2002) (Nov. 14, 2002, Reich Petition). The petition was placed on public notice on December 18, 2002. See *Public Notice*, Report No. 2589 (rel. Dec. 18, 2002). A list of commenters is presented in Appendix B.

<sup>337</sup> *Id.*

<sup>338</sup> *Id.*

<sup>339</sup> See, e.g., William Houlne Comments at 1 and Nathan Bargmann Comments at 1.

<sup>340</sup> See, e.g., Tim Hagfors Comments at 1, Nathan Bargmann Comments at 1, Bill Strickland Comments at 1, and James T. Ferrell Comments at 1.

<sup>341</sup> See, e.g., Steven E. Matda Comments at 1, Justin Cox Comments at 1, John A. Reynolds Comments at 1, Thomas H. Busch Comments at 1, and Charles Ristorcelli Comments at 1.

<sup>342</sup> See, e.g., William Houlne Comments at 2 and Steven E. Matda Comments at 1.

<sup>343</sup> See *License Restructure Report and Order*, 15 FCC Rcd at 323 ¶ 15.

<sup>344</sup> See *License Restructure Report and Order*, 15 FCC Rcd at 323 n.55.

class operator license. Rather, we believe that passing an examination concerning the operational and technical privileges of a higher class operator license shows that a licensee qualifies for that license. In this regard, we note that because current examination questions reflect current technological advances and operating practices that did not exist twenty years ago<sup>345</sup> the examinations an examinee must pass today may be more difficult than the examinations required of licensees in the past. For these reasons, we deny the petition.

#### L. Commission Proposals and Order

83. In addition to the changes recommended by the petitioners, we also propose various amendments to our Rules. We believe these changes will streamline our proceedings, simplify our administration of the amateur service, and eliminate unnecessary restrictions and requirements imposed on licensees.

84. Third-party communications. Third party communications are messages from the control operator of an amateur station to another amateur station control operator on behalf of another person, the third party.<sup>346</sup> Generally, the third party is an individual who is not a licensee in the amateur service. Authorization to transmit third party communications allows amateur radio operators to assist the public, particularly with respect to providing emergency communications, because amateur radio operators may transmit messages on behalf of members of the public.<sup>347</sup> In order to prevent individuals who have violated our Rules in the past from communicating via amateur radio stations, however, our Rules prohibit certain former licensees from being third parties.<sup>348</sup> We propose to revise Section 97.115 of our Rules to add to the existing list of individuals who are not eligible to be third-parties a former licensee whose license was not renewed after a hearing, and to clarify that only a station transmitting a RTTY or data emission may be automatically controlled while transmitting third-party communications.<sup>349</sup> We request comment on these proposals.

85. Limitations imposed on manufacturers. Our Rules prohibit commercial manufactures from marketing power amplifiers that are capable of transmitting on the 12 m and 10 m amateur service bands to amateur radio operators.<sup>350</sup> We believe that these rules impose unnecessary restrictions on manufacturers of amateur radio equipment, are inconsistent with the experimental nature of the amateur service,<sup>351</sup> and may result in amateur stations transmitting at higher power levels than necessary.<sup>352</sup> Accordingly, we propose to amend Sections 97.315 and 97.317 of our

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<sup>345</sup> See 47 C.F.R. § 97.523.

<sup>346</sup> See 47 C.F.R. § 97.3(a)(46)

<sup>347</sup> See 47 C.F.R. § 97.1(a).

<sup>348</sup> See 47 C.F.R. § 97.115(b)(2).

<sup>349</sup> See 47 C.F.R. § 97.115.

<sup>350</sup> See 47 C.F.R. §§ 97.315, 97.317. See also 47 C.F.R. §§ 2.815(b), 2.1060(c). The 12 m band is 24.89-24.99 MHz and the 10 m band is 28.0-29.7 MHz. We note that the rules do not impose a similar limitation on amateur service licensees who build, modify, purchase used, or otherwise obtain a RF power amplifier.

<sup>351</sup> See 47 C.F.R. § 97.1.

<sup>352</sup> See Letter from Charles T. Rauch, Engineering Director, MFJ Enterprises (MFJ), to FCC Laboratories, Customer Service Branch (June 18, 1998) requesting waiver of Sections 97.315(b) and 97.317 to allow MFJ to market an RF power amplifier for use in conjunction with a line of low power transceivers that it manufactures. See also Comer Communications, Inc., Application for Waiver of Sections 97.315(b) and

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Rules<sup>353</sup> to clarify and simplify the exceptions in our Rules. Specifically, to eliminate the disparate restrictions imposed on manufacturers as compared to the restrictions imposed on amateur service licensees, to allow manufacturers to market equipment in the United States that they may market overseas, and to eliminate any ambiguity in these rules, we will propose to delete the following requirements: (a) a manufacturer must design an amplifier to use a minimum of 50 watts drive power, and (b) the amplifier must not be capable of operating on any frequency between 24 MHz and 35 MHz.<sup>354</sup> Historically, we note that the Commission promulgated Sections 97.315 and 97.317 of our Rules at a time when the Citizens Band (CB) Radio Service was the primary service that individuals used to satisfy their personal communication needs.<sup>355</sup> The Commission adopted these Rules in 1978 to prevent commercial manufacturers from marketing to CB Radio Service users RF power amplifiers that had been approved for use at amateur stations.<sup>356</sup> We note, however, that Section 95.411 of our Rules already satisfies the policy objectives sought by Sections 97.315 and 97.317. Specifically, Section 95.411 of our Rules prohibits, under any circumstances, an individual from attaching an external RF power amplifier or any device capable of amplifying the signal to a CB transmitter.<sup>357</sup> Thus, an individual who uses an amplifier at a CB Radio Service station would violate a CB Radio Service rule and not an amateur service rule. Therefore, to eliminate redundancy and provide clarity in our rules, we propose to amend Sections 97.315 and 97.317 of our Rules. We request comment on this proposal.

86. We also propose to delete Section 97.3(a)(19) of our Rules.<sup>358</sup> This rule section defines an external RF power amplifier kit as a number of electronic parts which, when assembled, is an external RF power amplifier, even if additional parts are required to complete assembly.<sup>359</sup> Because of the broad scope of this definition, we are concerned that an amateur radio operator would find it difficult to determine if a group of electronic parts he or she purchases or possesses will be defined by the Commission as an external RF power amplifier kit. In this regard, we note that because many electronic parts used in RF power amplifiers are also used in other electronic equipment, any group of electronic parts, particularly if supplemented by additional parts, could be assembled to make a power amplifier or part of a RF power amplifier.<sup>360</sup> Because of the uncertainty created by this rule, we propose to eliminate Section

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97.317 (filed Feb 13, 1995) requesting permission to market an RF power amplifier for use in conjunction with an amateur station transmitter that plugs into a personal computer.

<sup>353</sup> See 47 C.F.R. §§ 97.315, 97.317; see also, 47 C.F.R. §§ 2.815, 2.1060(c).

<sup>354</sup> See 47 C.F.R. § 97.317(a)(3), (b), and (c).

<sup>355</sup> Since 1978, other personal communications services including the Family Radio Service, the Multi-Use Radio Service, the General Mobile Radio Service, and cellular-type communications services, including some with two way radio-type capabilities, have become readily available.

<sup>356</sup> See Amendment of Part 2 of the Commission's Rules to Prohibit the Marketing of External Radio Frequency Amplifiers Capable of Operation on any Frequency from 24 to 35 MHz, *Report and Order*, 67 FCC 2d 939, 940 ¶¶ 5-10 (1978).

<sup>357</sup> See 47 C.F.R. § 95.411(a). Use of a power amplifier voids an individuals authority to operate the CB station.

<sup>358</sup> See 47 C.F.R. § 97.3(a)(19).

<sup>359</sup> See *id.*

<sup>360</sup> We note that electronic parts such as resistors, fixed and variable capacitors, diodes, integrated circuits, and microprocessors are used in RF power amplifiers and consumer electronic devices. The parts used to  
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97.3(a)(19) of our Rules. We request comment on this proposal.

**87. Public service communications.** Currently, our Rules limit amateur station transmissions in support of relief actions to disaster situations when normal communication systems are overloaded, damaged or disrupted.<sup>361</sup> We propose to amend Section 97.111(a) to clarify that amateur stations may at all times and on all channels authorized to the control operator, make transmissions necessary to meet essential communication needs and to facilitate relief actions.<sup>362</sup> One of the fundamental purposes of the amateur service is providing emergency communications to the public.<sup>363</sup> Consistent with the public interest, we believe that we should not restrict these communications, which may be instrumental in saving human life and property. We also believe that amending Section 97.111(a) as proposed obviates the need for Sections 97.401(a) (concerning disaster communications) and 97.401(c) (concerning the priority given to disaster communications). Thus, we propose to delete these sections. We request comment on these proposals.

**88. Alaska Emergency Frequency.** Section 97.401(d) of our Rules<sup>364</sup> authorizes an amateur station in Alaska, or within 92.6 km of Alaska, to transmit communications during emergencies on 5.1675 MHz (the Alaska Emergency Frequency).<sup>365</sup> However, this authorization does not include communication for training drills and tests. In contrast, we authorize other amateur stations to transmit communications for training drills and tests on channels they would use in the event of an emergency.<sup>366</sup> We believe that authorizing an amateur station in or near Alaska to transmit communications for training drills and testing purpose, in addition to communications during emergencies, would enhance emergency communication capabilities, thus serving the public interest. For this reason, we propose to amend Section 97.401(d) of our Rules to authorize an amateur station in, or within 92.6 km of Alaska to transmit communications during tests and drills on 5.1675 MHz. We request comment on this proposal.

**89. Radio Amateur Civil Emergency Service (RACES).** The RACES was established in 1952.<sup>367</sup> It authorizes specific frequency bands for amateur service stations to use for providing

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build an antenna tuner or power supply, for example, could be defined as an external RF power amplifier kit because, with additional parts, those parts used in an antenna tuner or a power supply may also be used in an external RF power amplifier.

<sup>361</sup> See 47 C.F.R. § 97.401(a).

<sup>362</sup> See 47 C.F.R. § 97.111(a).

<sup>363</sup> See 47 C.F.R. § 97.1(a).

<sup>364</sup> See 47 C.F.R. § 97.401(d).

<sup>365</sup> See PR Docket No. 83-464, Amendment of Parts 2, 81, 83, 87, 90, and 97 of the Commission's Rules and Regulations to Implement Changes in the Alaska Fixed Service, *Report and Order*, 49 Fed. Reg. 32194 (1984). See also Amendment of the Rules Governing the Maritime Radio Services, *Report and Order*, PR Docket No. 85-145, 51 Fed. Reg. 31213 (1986) (Alaska Fixed Service incorporated into the Maritime Radio Services).

<sup>366</sup> See 47 C.F.R. § 97.111(a) (an amateur station may transmit communications in tests and drills on channels it is authorized to use for emergency communication); see also 47 C.F.R. § 97.407(e)(4) (a station authorized in the Radio Amateur Civil Emergency Service (RACES) may also transmit these communications).

<sup>367</sup> See Providing a Radio Amateur Civil Emergency Service, Docket No. 10102, *Memorandum Opinion and Order*, 1 Rad. Reg. Part Three (P&F) 91-1141 (1952). Frequency segments for this service were established

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civil defense communications in the event that amateur service use of the radio spectrum is suspended due to war or other national emergency.<sup>368</sup> Presently, procedures for the use and coordination of the radio spectrum during such emergencies are specified, among other places, in Parts 201 and 214 of our Rules.<sup>369</sup> These procedures specify that during certain periods of wartime emergency<sup>370</sup> the Director of the Office of Science and Technology Policy (OSTP) will serve as the central authority over the Nation's telecommunications facilities, systems, and services,<sup>371</sup> and will authorize, modify, or revoke the continuance of all frequency authorizations issued by the Commission.<sup>372</sup> Additionally, these procedures authorize the Director, OSTP, to issue policy guidance, rules, regulations, procedures, and directives to assure effective frequency usage during wartime emergency conditions.<sup>373</sup>

90. Section 97.407(b) of our Rules authorize RACES stations and amateur stations participating in RACES to transmit on certain specified frequency segments during periods of wartime emergency.<sup>374</sup> Section 97.407(b) does not indicate, however, that such authorization is subject to other rules that are in place for the use and coordination of the radio spectrum during such emergencies. We believe that specifying frequency segments that RACES stations and amateur stations participating in RACES may transmit on is unnecessary in light of these rules. In this regard, we note that the Director, OSTP, has the authority to specify which, if any, frequency segments RACES stations and other amateur stations may transmit on. We also believe that Section 97.407(b) should be consistent with current emergency use and coordination procedures. For this reason, we propose to amend Section 97.407(b) of our Rules to delete the frequency bands and segments specified therein and to clarify that during certain emergencies the frequency segments available to RACES stations and amateur stations participating in RACES would be authorized pursuant to Part 214 of our Rules. We request comment on this proposal.

91. Qualifying examination system rules. We propose to amend certain amateur radio test administration rules to conform to current practices.<sup>375</sup> Specifically, we propose to eliminate Section 97.509(a) of our Rules,<sup>376</sup> which requires a public announcement of test locations and times, because test locations and times are given adequate coverage on club and Volunteer-

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in cooperation with the Civil Defense Administration and the military. See *Public Notice "Frequencies Available For Amateur Participation In Civil Defense Communication"* FCC 51-35, Mimeo No. 58278 (released Jan. 17, 1951) (*RACES Public Notice*). RACES, an organization of amateur radio operators who volunteer to provide essential communications and warning links to supplement State and local government assets during emergencies, currently is sponsored by the Federal Emergency Management Agency. See <http://www.fema.gov/library/civilpg.shtml>.

<sup>368</sup> See *RACES Public Notice* at 1. See also 47 C.F.R. § 97.407(b).

<sup>369</sup> See 47 C.F.R. Parts 201, 214.

<sup>370</sup> See 47 U.S.C. § 606.

<sup>371</sup> See 47 C.F.R. § 201.3 (g).

<sup>372</sup> See 47 C.F.R. § 214.4 (a), (b)(1).

<sup>373</sup> See 47 C.F.R. § 214.5 (a), (b).

<sup>374</sup> See 47 C.F.R. § 97.407(b).

<sup>375</sup> See 47 C.F.R. § 97 Subpart F.

<sup>376</sup> See 47 C.F.R. § 97.509(a).

examiner Coordinator (VEC) websites,<sup>377</sup> in newsletters,<sup>378</sup> and in other media. We also note that requiring these public announcements serves no useful purpose when the examination location is not accessible to the general public (e.g., the location is a corporate office or military facility) or the test is being administered to one examinee as an accommodation for a disability or as a special examination procedure.<sup>379</sup> In addition, we believe this rule may cause some VEs to question whether our Rules prohibit them from conducting quickly-arranged examination sessions. We request comment on this proposal.

92. Section 97.505(a)(9) of our Rules<sup>380</sup> currently requires that VEs give examination credit for the telegraphy examination element to an examinee who holds an expired Technician Class license document granted before February 14, 1991. An examinee who holds an expired Technician Class license document granted after February 14, 1991, and who also has received credit for passing the telegraphy examination element, however, would not receive examination credit for the telegraphy examination element because Section 97.505(a)(9) does not allow the VEs to give telegraphy examination element credit to an examinee holding an expired Technician Class license document granted after February 14, 1991. We believe that an examinee who holds an expired Technician Class license and who has passed the telegraphy examination element should receive examination credit for this element regardless of when their Technician Class license was first granted. Therefore, we propose to add Section 97.505(a)(10) to our rules so that an examinee who holds a Technician Class license document granted after February 14, 1991, and who has documentation showing they have passed a telegraphy examination element, will receive examination credit for this element. We seek comment on this proposal.

93. We also propose to amend Sections 97.509(m) and 97.519(b) of our Rules to eliminate from both rules the mandated ten-day time during which VEs and VECs must submit or forward applications.<sup>381</sup> This limitation is not required by statute, but rather the Commission adopted it in 1984 to ensure the timely filing of examinee's paper applications with the Commission.<sup>382</sup> Technological changes that have occurred since 1984, however, have allowed the VECs to file applications electronically with the Commission and the rules require that they do so.<sup>383</sup> Therefore, we believe that a rule mandating a ten-day submission time is unnecessary in light of the current rules and actual practices in the VEC system. Accordingly, we invite comment on this proposal. We also request comment regarding whether there are other

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<sup>377</sup> See e.g., <http://www.arrl.org/arrlvec/examsearch.phtml>, <http://www.w5yi.org/vol-exam.htm>, and <http://www.washarc.org/>.

<sup>378</sup> See e.g., *Squelch Tale* (Chicago FM Club newsletter, Evanston, IL), *WASHRAG* (Wireless Association of South Hills newsletter, Pittsburgh, PA), *The Ham Arundel News* (Anne Arundel Radio Club newsletter, Annapolis, MD).

<sup>379</sup> See 47 C.F.R. § 97.509(k).

<sup>380</sup> See 47 C.F.R. § 97.505(a)(9).

<sup>381</sup> See 47 C.F.R. §§ 97.509(m), 97.519(b).

<sup>382</sup> See Amendment of Parts 0, 1, and 97 of the Commission's Rules to Allow the Use of Volunteers to Prepare and Administer Operator Examinations in the Amateur Radio Service, *Report and Order*, PR Docket No. 83-27, 48 Fed. Reg. 45652 (1983).

<sup>383</sup> See Amendment of the Amateur Service Rules to Change Procedures for Filing an Amateur Service License Application and to Make Other Procedural Changes, *Order*, 9 FCC Rcd 6111 (1994). The requirement that VECs file applications electronically with the Commission is codified at 47 C.F.R. § 97.519(b)(3).

unnecessary rules applicable to the amateur service qualifying examination system that we should eliminate, and whether there are other rules we should amend to conform with actual practices in the examination system.

94. *Order.* We are making minor amendments to various rule sections to clarify or eliminate duplicative language, or conform them with other rule sections. First, we will revise Section 0.131(n) of our Rules<sup>384</sup> to remove the phrases “commercial radio operator program (part 13 of this chapter) and” and “the program for construction, marking and lighting of antenna structures (part 17 of this chapter) and.” Section 0.131 states the functions of the Wireless Telecommunications Bureau. These phrases also are contained in Section 0.131(j) of our Rules.<sup>385</sup> Consequently Section 0.131 states that the Wireless Telecommunications Bureau administers the commercial radio operator program and the antenna structure registration program in two separate provisions. This redundancy serves no useful purpose.

95. Second, we will revise the definition of an “amateur operator” in Section 97.3(a)(1) of our Rules<sup>386</sup> to reflect that it is not the possession of a license document, but rather an entry on our Universal Licensing System (ULS) that determines whether a person is an amateur radio operator.<sup>387</sup> In 1994, the Private Radio Bureau made non-substantive rule changes to decrease the delay between license grant and actual operation by amateur radio operators.<sup>388</sup> Accordingly, an applicant may begin operating as soon as the ULS database reflects the license grant. The applicant does not have to wait for the printing, mailing, and receipt of the license document before operating. This change conforms our Rules to past changes and permits licensees to benefit from technological enhancements the Commission has embraced.

96. Third, we will replace the term “Engineer-In-Charge” with “District Director” in Section 97.109(d).<sup>389</sup> We will make this change because the Enforcement Bureau (EB) no longer uses the term “Engineer-in-Charge” (EIC) and because the EIC function is now performed by a District Director in EB.<sup>390</sup> Additionally, we will delete the definition of EIC from Section 97.3(a).<sup>391</sup>

97. Fourth, we also note that the rules applicable to repeater stations are found in Sections 97.203(h) and 97.205 of our Rules.<sup>392</sup> We will consolidate these rules in Section 97.205 by redesignating Section 97.203(h),<sup>393</sup> a notification requirement applicable to a repeater within 16 km of the Arecibo Observatory, as Section 97.205(h). We believe that consolidating the rules in one section will simplify their use for licensees.

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<sup>384</sup> See 47 C.F.R. § 0.131(n).

<sup>385</sup> See 47 C.F.R. § 0.131(j).

<sup>386</sup> See 47 C.F.R. § 97.3(a)(1).

<sup>387</sup> See Amendment of the Amateur Service Rules to Change Procedures for Filing an Amateur Service License Application and to Make Other Procedural Changes, *Order 9 FCC Rcd 6111* (1994).

<sup>388</sup> See *id.* ¶ 4.

<sup>389</sup> See 47 C.F.R. § 97.109(d).

<sup>390</sup> See 47 C.F.R. § 0.314.

<sup>391</sup> See 47 C.F.R. § 97.3(a)(17).

<sup>392</sup> See 47 C.F.R. §§ 97.203(h), 97.205.

<sup>393</sup> See 47 C.F.R. § 97.203(h).

98. Fifth, the international *Radio Regulations* have been amended to require that, as of January 1, 2003, the mean power of any spurious emission from a new amateur station transmitter or amplifier transmitting on a frequency below 30 MHz to be at least 43 dB below the mean power of the fundamental emission.<sup>394</sup> Our current rule that implements this *Radio Regulation*, Section 97.307(d), is inconsistent with the *Radio Regulations* because it permits the mean power of any spurious emission from a new transmitter or amplifier to be only 40 dB below the mean power of the fundamental emission.<sup>395</sup> Because Section 97.307(d) of our Rules is inconsistent with the *Radio Regulations*, we will amend it to implement the current *Radio Regulations* requirement.

99. Sixth, we will revise Section 97.505(a)(9) to refer to only expired Technician Class license documents granted before February 14, 1991. Section 97.505(a)(9) currently refers to both expired and unexpired Technician Class Operator license documents granted before February 14, 1991. Because the term of an amateur service license grant is normally ten years, there are no more unexpired Technician Class Operator license documents that the Commission granted before February 14, 1991. This change eliminates an unnecessary requirement of the VEs.

100. Lastly, we will revise Section 97.507(a)(2) of our Rules<sup>396</sup> so that it conforms with Section 4 of the Communications Act of 1934, as amended.<sup>397</sup> Section 4(f)(4)(A) of the Act requires the preparation of an amateur radio operator examination by an amateur radio operator who holds a higher class of operator license than the class of license for which the examination is being prepared. Thus, we will amend Section 97.507(a)(2) to remove authority for a Technician Class amateur radio operator to prepare a Technician Class operator license examination. We conclude that these non-substantive changes to the amateur service rules are not subject to notice and comment under the Administrative Procedure Act.<sup>398</sup> Specifically, we find that notice and comment on these rule changes is unnecessary because amendment of Section 0.131(n) reflects rules of agency practice and organization, and amendment of Sections 97.3(a)(1), 97.3(a)(17), 97.109(d), and 97.203(h) reflect agency organization or procedure. We also find good cause to adopt amendments to Sections 97.307(d) and 97.507(a)(2) without notice and comment. We request comment, however, as to whether other rule sections in Part 97 may be clarified, revised to eliminate duplicative language, or conformed with other sections of our Rules.

101. In summary, we believe that the public interest will be served by revising the amateur service rules as indicated above. We believe that these proposed rule changes will allow amateur service licensees to better fulfill the purpose of the amateur service and will enhance the usefulness of the amateur service to its licensees. We also seek comment on other rule changes that should be considered at this time.

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<sup>394</sup> See *Final Acts of the WRC-97*, Article S3 and Appendix S3, Tables I and II. See also Mr. Peter Chadwick, April 9, 2001 e-mail "ITU-R Recommendation SM.329" (Chadwick Request). We note that these spurious emission limits became applicable to all amateur stations after January 1, 2012.

<sup>395</sup> See 47 C.F.R. § 97.307(d).

<sup>396</sup> See 47 C.F.R. § 97.507(a)(2).

<sup>397</sup> See 47 U.S.C. § 154 (f).

<sup>398</sup> See 5 U.S.C. § 553 (b)(3).

## IV. PROCEDURAL MATTERS

102. *Initial Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>399</sup> requires an initial regulatory flexibility analysis to be prepared for notice and comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”<sup>400</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>401</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>402</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>403</sup>

103. *In this Notice,* we propose to amend the rules that apply to how an individual who has qualified for an amateur service operator license and is the control operator of an amateur radio station can use an amateur radio station to pursue the basis and purpose of the amateur service.<sup>404</sup> The proposed rules apply exclusively to individuals who are licensees in the amateur radio service and to individuals who are control operators of amateur radio stations. Such amendments would be in the public interest because they would allow more flexibility in the way an amateur radio station can be used by a licensee, would allow the control operator of an amateur radio station additional flexibility in the operation of the station, and would take advantage of technological developments in equipment and communication techniques that have occurred since the Commission last considered operating privileges in the amateur radio service.

104. In addition, the rules proposed in this *Notice*, potentially could affect manufactures of amateur radio equipment. Based on requests from manufactures for certification of amateur radio transmitters and receivers, we believe that there are between five and ten manufactures of amateur radio equipment and that none of these manufactures are small entities. The proposed rule changes, if adopted, would apply to the control operator of an amateur radio station and would not result in a mandatory change in manufactured amateur radio equipment. Therefore, we certify that the proposals in this *Notice*, if adopted, will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the *Notice*, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.<sup>405</sup> This initial certification will also be published in the

<sup>399</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>400</sup> See 5 U.S.C. § 605(b).

<sup>401</sup> See 5 U.S.C. § 601(6).

<sup>402</sup> See 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>403</sup> See 15 U.S.C. § 632.

<sup>404</sup> See 47 C.F.R. § 97.1

<sup>405</sup> See 5 U.S.C. § 605(b).

Federal Register.<sup>406</sup>

105. *Paperwork Reduction Analysis.* This *Notice* does not contain either a proposed or modified information collection requirement.

106. *Ex Parte Rules Presentations* This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, 1.1206(a).

107. *Alternative formats.* Alternative formats (computer diskette, large print, audiocassette, and Braille) are available from Brian Millin at (202) 418-7426, TTY (202) 418-7365, or at <[bmillin@fcc.gov](mailto:bmillin@fcc.gov)>. This *Notice* can also be downloaded from the Commission's web site at <<http://www.fcc.gov/>>.

108. *Comment Dates.* Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before June 15, 2004, and reply comments on or before June 30, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>407</sup>

109. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to <[ecfs@fcc.gov](mailto:ecfs@fcc.gov)>, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

110. Parties who chose to file by paper must file an original and four copies of each filing. The docket number appearing in the caption of this proceeding must appear in each comment or filing. All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Room TW-A325, Washington, D.C. 20554.

111. For further information, contact William T. Cross, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418-0680, or TTY (202) 418-7233.

## V. ORDERING CLAUSES

112. IT IS ORDERED that, pursuant to Sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 303(r), NOTICE IS HEREBY GIVEN of the proposed amendment to Parts 0, 2 and 97 of the Commission's Rules, 47 C.F.R. Parts 0, 2 and 97, as described above, and that COMMENT IS SOUGHT on these proposals.

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<sup>406</sup> See *id*

<sup>407</sup> See Electronic Filing of Documents in Rulemaking Proceedings, *Memorandum Opinion and Order*, 13 FCC Rcd 11322 (1998).

113. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10313, submitted by Kenwood Communications Corporation, Inc., on May 1, 2001, IS GRANTED to the extent indicated herein.

114. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10352, submitted by Mr. Jeffery T. Briggs and Mr. William R. Tippet II on September 10, 2001, IS DENIED.

115. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10353, submitted by The Quarter Century Wireless Association, Inc., on December 17, 2001, IS GRANTED to the extent indicated herein.

116. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10354, submitted by Mr. John S. Rippey on December 27, 2001, IS DENIED.

117. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10355, submitted by NASA John H. Glenn Research Center Amateur Radio Club on December 27, 2001, IS GRANTED to the extent indicated herein.

118. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10412, submitted by Mr. Nickolaus E. Leggett on February 11, 2002, IS DENIED.

119. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10413, submitted by ARRL, Inc., on March 22, 2002, IS GRANTED to the extent indicated herein.

120. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10492, submitted by Mr. Robert H. Birdsey on March 19, 2002, IS DENIED.

121. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10521, submitted by Dr. Michael C. Trahos on January 2, 2002, IS DENIED.

122. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10582, submitted by Messrs. Marvin W. Edwards, Frank A. Lynch, and C. Norman Young, Jr., on September 10, 2002, IS GRANTED to the extent indicated herein.

123. IT IS FURTHER ORDERED that the Petition for Rule Change, RM-10620, submitted by Mr. Dale E. Reich on November 14, 2002, IS DENIED.

124. IT IS FURTHER ORDERED that the Petition for Rulemaking, RM-10621, submitted by The Radio Amateur Satellite Corp. on December 2, 2002, IS GRANTED to the extent indicated herein.

125. IT IS FURTHER ORDERED that the Request for Rule Amendment submitted by Mr. Peter Chadwick on April 9, 2001, IS GRANTED to the extent indicated herein.

126. IT IS FURTHER ORDERED that the Petition for Rulemaking submitted by Mr. John J. Elengo on April 11, 2002, IS DENIED.

127. IT IS FURTHER ORDERED that the Petition for Rule Change submitted by Mr. Dale E. Reich on December 4, 2002, IS DENIED.

128. IT IS FURTHER ORDERED that the Petition for Rule Change submitted by Mr. Dale E. Reich on December 10, 2002, IS DENIED.

129. IT IS FURTHER ORDERED that the Petition for Rulemaking submitted by Mr. Johnathan S. Gunn on January 22, 2003, IS DENIED.

130. IT IS FURTHER ORDERED that the request for a Notice of Inquiry submitted by Mr. Bob Sherin on January 30, 2003, IS DENIED.

131. IT IS FURTHER ORDERED that the Petition for Rulemaking submitted by Mr. Phillip E. Galasso on February 12, 2003, IS DENIED.

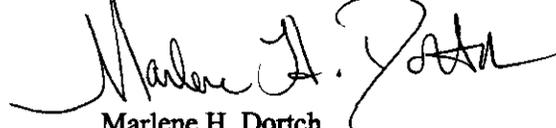
132. IT IS FURTHER ORDERED that the Petition for Rulemaking submitted by Mr. Mark Miller on February 25, 2003, IS GRANTED to the extend indicated herein.

133. IT IS FURTHER ORDERED that, pursuant to Sections 4(i), 303(f), 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. § § 154 (i), 303(f), 303(r) and 332, this *Order* IS ADOPTED

134. IT IS FURTHER ORDERED that Part 97 of the Commission's Rules IS AMENDED as specified in Appendix C, effective June 1, 2004.

135. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this NOTICE OF PROPOSED RULEMAKING AND ORDER, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

**FEDERAL COMMUNICATIONS COMMISSION**



Marlene H. Dortch  
Secretary