

**Reply Comments**  
**From Paul Courson**  
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Come now a Reply comment OPPOSED in the matter of the ARRL's continued advocacy in 04-140 of mandatory, reserved spectrum for "digital modes" that are not seeing significant use in the Amateur Service.

There is no history of using federally reserved spectrum to successfully encourage the use of a new and/or novel mode in the Amateur Service. Moreover, it would go against longtime FCC rulemaking strategy to consider the concept of pre-emptively setting aside spectrum on a full-time basis for ANY mode or activity when such a move is not in response to an established case of chronic and substantial interference that could not previously be resolved with other, non-regulatory efforts such as voluntary, situational coordination.

Government intervention here, at this time, would be a sequence that puts the cart before the horse. It would cause an inefficient use of the FCC's time, especially if future rulemaking is required to mitigate the possible failure of such a strategy today to improve spectrum utilization.

This Commenter would not oppose temporary protection for digital modes if a case could be made that it is needed for real-time activities, not theoretical future growth. Such protection should always respect actual band loading and not be expressed as a full-time reservation that would have the undesired effect of prohibiting flexible use by other modes and activities when there is no significant interference to any "digital" users. For example, an allocation routinely shared by multiple modes and activities could revert to exclusive use by "digital" users during times of high occupancy. An expiration date on such a provision, if added to the Rules, would minimize future regulatory intervention should such protection seldom be needed.

This Commenter asserts that the ARRL's idea of taking reserved space from Morse code and grouping it in favor of "digital" is simply forcing a thinly based wish into the regulatory structure for the Amateur Service. There is no research submitted in this proceeding that prospective regulatory subsidies for "digital" can quickly improve the problem of underutilized allocations, a key goal of this proceeding. An implied link between such protection and motivation to pursue a novel mode or activity is not proven among these filings to be a viable, long-term method for licensees to demonstrate the effective use of our bands.

Come now a comment in SUPPORT of the FCC's proposal to reduce the size of our allocations exclusively reserved for the declining specialty of Morse code communications. A cutback can more closely match today's levels of participation in "CW," and will create additional operating space for other modes and activities that currently enjoy heavier participation on these shortwave ham bands, and for which relief from real-time congestion is indicated. Discontinuing and opening up to broader use the Morse Code Novice bands is a good start, but incomplete as part of an overall need to scale back mandatory set-asides for CW that exist throughout the Amateur license class structure.

The Commission, over the years, has wisely avoided setting standards of justification for the various modes used within our allocations, such that all modes enjoy an equal claim to a vacant and appropriate spot on the dial, divided in the regulations between "Morse Code" and "Phone" types of signals. This has allowed specialized activities to remain included in our hobbyist pursuits since all have a place where they can be used (with a contemporary exception of narrow digital voice that the FCC here takes affirmative action to support).

However, in the interest of improved spectrum utilization, remaining ham operators who wish to pursue CW activity should now forego obsolete mandatory protections that are not granted to any other mode or activity.

This would be a fundamental and critical modernization from the days when there was roughly equal participation in "Morse Code" and "Phone," while remaining loyal to the FCC's philosophy of allowing all modes and activities within our assigned spectrum.

Responding to those concerned about losing federally reserved operating space for a specific but out-of-fashion mode, Commenters have submitted nothing for the record in 04-140 to back a claim by Morse Code supporters that CW's future is doomed from the absence of reserved frequency space, nor has there been any evidence submitted in this proceeding that set-asides have slowed the migration away from Morse Code. Specialties such as Morse code must be able to stand on their own merits, and not with disproportionately large reserved space for operators who may never show up. This has implications for the ARRL's grouping of "digital" modes with traditional Morse code activity in this proceeding.

Spectrum utilization in our hobby is most realistically illustrated by the observable use of frequencies allocated to us, plain and simple. Morse Code is considered narrow by bandwidth, yet it is spectrum inefficient as a practical matter because of the few stations routinely heard in vast zones protected by law from use by others. Similarly, wider-bandwidth communications modes such as phone are more efficient as a practical matter, because their popularity makes for complete and, indeed, sometimes congested use of spectrum allowed for modes such as AM and other traditional, popular analog phone emissions.

This is why a bandwidth-based segregation scheme envisioned by the ARRL would do little to encourage the dynamic use of our spectrum. Such dynamic use, unfettered in an open system of voluntarily coordinated activity, would be an improvement over today's rigid, full-time constraints in the Rules that the FCC is trying to update.

The Rules, before this modernization review, have created a discrepancy where narrow bandwidth modes do not automatically equal spectrum efficiency. The Rules segregating "phone" and "CW" modes have not been substantially revised to remain in harmony with today's operating preferences, and ideally, the FCC would do well to remove, not just scale back any remaining protections for specialties.

I support the FCC's discussion point in this proceeding that "voluntary band planning ... allows the amateur service community to reallocate spectrum to accommodate changes in operating interests and technologies." This has become known in the amateur community as "dynamic spectrum use" that strives to coordinate our activities based on occupancy, propagation, and mode compatibility. The Rules, as written, unreasonably constrain this goal by imposing an overlay of inflexible, full-time zones that do not take such variables into account.

Please consider reducing or eliminating the leftover segregation of "CW" by going beyond the proposal at hand, and thus allow Morse Code to take its place as a specialty at whatever level of participation its fans can muster. Those of us with interests in other modes and activities have long done the same, without any special reservations, and it seems a fair and equitable way for us to demonstrate to regulators that we can make maximum use of the frequencies you have allowed for us.

Come now a Reply in SUPPORT of concerns expressed by Mark Miller, N5RFX, an individual petitioner in these proceedings who has filed a Reply to Comments dated 06/18/04. Miller notes his research has uncovered "significant opposition" to a threatened petition from the ARRL, a group that may propose segregation of amateur activities by bandwidth. This reported proposal has become part of these proceedings before you today on warnings from the League that your decision-making here may prove premature.

Come now a Reply to Comments filed 06/15/04 by Christopher D. Imlay, W3KD, an attorney specializing in communications law whose clients include serving as paid counsel for the non-profit group American Radio Relay League (ARRL). Imlay said this group has "carefully researched" the subject of HF operating privileges, including what he calls a "specific survey" of both ARRL subscribers and those who have chosen not to affiliate with this group. Licensed amateurs from at least one specialty in the Amateur Service, those who experiment with traditional double sideband, full carrier AM, are missing thus far from discussions within the League's preparations.

Our group has a primary stake in any regulatory specifications constraining the bandwidth of traditional "phone" emissions. We, the members of the AM community, await an invitation to formally submit our opinions to the ARRL to help with its deliberations that may lead to a petition to federal regulators. In the meantime, we pre-emptively caution the FCC against any heavy reliance on conclusions the ARRL may draw in any upcoming proposal on the matter, if they ultimately choose not to seek and include our proffered input.

Come now a Reply to the ARRL's continued advocacy of merging the legacy license class of Advanced into the Extra. This Commenter believes such a merge should be available only at the request and application of the licensee. This Commenter and others who hold the Advanced Class license wish to preserve this distinctive ticket because it represents a higher level of achievement than exams offered for today's "Extra" license. Since the Advanced comprises a closed and exclusive group of licensees, there is little administrative burden to the FCC to maintain this legacy class and allow us to remain distinct.

Signed,

/s/

Paul Courson

WA3VJB

Amateur Advanced Class

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