

Response to NPRM 05-235

I feel this Notice of Proposed Rule Making is unfortunately the first formal action by the Federal Communications Commission to completely deregulate the Amateur Radio Service. It is not a shot across our bow; these were fired in 1991 and 2000, so the loaded torpedo is in the water and it is well armed.

The main point seems to be settling the “Great Debate” over Morse once and for all, along with sneaking in some smaller items.

And, of course, this action is legal. In informally talking with a retired FCC lawyer, I was told that the FCC could do anything it wants with a stroke of a pen, including: “You have finally convinced us that you don’t know what you want. Therefore, on date \_\_\_\_\_, the Amateur Radio Service will no longer exist and we have auctioned off your frequencies to the highest bidder. Thanks for keeping the frequencies warm for the last hundred years.”

The track record of the FCC in deregulating HF bands is well known; just read Part 95.4xx.

Historically, Part 97.1 came into the Amateur Radio Service as Part 12.0 in 1951 amid great debate. But since not one word has changed in the interim, it should be just as valid today. And well over 95% of the current hams were been originally licensed under its provisions, thus accepting it as a condition of licensure. It should be adhered to.

The basis and purpose statement evoked considerable comment and argument, largely upon the ground that the amateur body should seek its own objectives and request of the Commission such minimum regulations as would accomplish these objectives. However, since the Commission is charged, under the provisions of the Communications Act, with a positive responsibility to regulate the use of radio in the public interest, it may not, as suggested, shift that responsibility to others. Accordingly, the statement of the basis and purpose of the amateur rules is intended as a prospectus of the accomplishments which the Commission expects to result from the activities of a healthy amateur radio service functioning within the limits of rules shaped toward this end. Additionally, and of equal importance, is the fact that an expressed firm basis thereby will be afforded for future international regulations affecting the Amateur Radio Service.

T. J. Slowie, Secretary

January 31, 1951

Many respondents state that commercial providers of communications modes no longer use Morse. This may well be true, but perhaps the ham radio answer lies in 97.113(a)(2) “(a) No amateur station shall transmit:

(2) Communications for hire...”

So, the big boys can spend big bucks and send big bills to their big end user to recoup the investment with bigger bucks. Where is the “end user” in ham radio??

Many respondents say that Morse is antiquated or outdated or... Isn't it a bit incongruous that a lot of them stoop to use an even older (and therefore more antiquated) technique for getting their thoughts organized? It's called “pen(cil) and paper...”

Morse is the only mode permitted on all the amateur frequencies.

Many responders have been reduced to “plea bargaining” by saying that we should keep Morse for the Extra class. This is not the stated intent of the NPRM, which in paragraph 16, openly proposes to apply the minimum standard, perhaps oversimplified here, that the applicant prove the ensurance of proper operation by locating and using the power switch, volume control, frequency selector and transmit/receive switch. Knowing how the circuits actually perform that function is apparently immaterial.

Some say that electronics is too difficult to comprehend. It really isn't. In simple terms:

Electrons, unlike (most) hams [an oxymoron, since we use electrons], hate each other, so they quickly go from where there are a lot of them to where there aren't as many, until the numbers are equal. Here they remain until a change, such as alternating current, comes along and then they reposition accordingly. Hopefully, our 8-year-old Extras can apply and understand this.

It is the myriad of laws and circuits that apply this principle that makes electronics so interesting and useful.

Loosely interpreting paragraph 18, the weasel word “tentatively” (not found in discussing the General) in sentence four gives a microglimmer of hope that Element 1 just might be retained for the Extra license. This way, the Commission could say, “Well, we tried to eliminate it, but enough good and valid responses came in to warrant keeping it.”

This is not the real issue; that issue is simply to retain Morse as it is now in the regulations, or dump it completely. There is no middle ground.

My position is the former- keep Morse for both the General and Extra. If it is kept for the Extra alone, then someone someday will mount a legal challenge that some j was not appropriately and timely dotted in the right color, so the process to eliminate it will have to start all over.

Perhaps those truly unable to master the Morse code should be able to get a waiver certified by a psychiatrist or psychologist skilled in the analysis of this area. If it is solely a physical issue, then a medical doctor could certify. It would be similar to the procedure previously used for the 13 and 20 WPM waivers before 2000.

In Appendix A, the proposed revision to 97.507(a)(2) would now include a Technician Plus as being eligible to administer Element 2. I cannot find this in any of the RM's or in the text of 05-235. It certainly goes against tradition, from my earliest reference, the 1939 License Manual, where Sect. 151.18 requires a Class A or B holder to be in charge of conducting the mail exam and then returning the papers to the FCC for processing. If the amateur was not old enough, then a person "of legal age" conducted the written, for a maximum of two people (as contrasted to three when the Volunteer Examiner system was established).

Since the FCC had examined the Class A or B holders, it followed that they were of higher class than the applicant. I believe this method continued through the Novice, Technician and Conditional exams until this was eliminated with the advent to the Volunteer Examiner system. As it now stands, most tests are administered by someone of higher class, with the obvious exception of Extras conducting Extra exams.

I fully concur with the Commission on not having any automatic upgrades.

I had a posting on the SPAR website that I wanted to use as a link to expand this response. However, that site was hacked and I can no longer do that. Therefore, per the instructions of the FCC Gettysburg office, I am dual filing, by this electronic means and also sending hard copies to the FCC as shown in paragraph 56. If you would like to see the attachment, please email me at [n6zq@arrl.net](mailto:n6zq@arrl.net) and I'll be very glad to email you one.

I find it very hard to understand what is being conveyed in

#### V. PROCEDURAL MATTERS (paragraphs 48 and 49)

Specifically how can 97.3(a)(4) "**...without pecuniary interest.**" be interpreted in any way with any business enterprise? Being a pilot for many years, I called my local FAA Flight Standard District Office, which supervises aviation personnel testing and certification, and asked how this matter was handled there. The first response was "Huh??" A discussion followed and I found out that they do not have such a concept there. Then why does the FCC, especially when the Amateur Radio Service is not a business?

Please clear up exactly when it applies to “...individuals are taking an examination...”

Let's use this scenario:

A VE session is to be given at a Red Cross building. The VE team is in place and ready before the start time. When does the provision asked immediately above take place?

The applicant

Enters the property

Enters the building

Enters the test area

Fills out the paperwork

Gets the test and answer sheet

Completes the test and answer sheet

Turns in test and answer sheet

Waits for grading and CSCE if appropriate

Leaves the test area

Leaves the building

Leaves the property

I can find nothing in my ARRL VE Manual remotely regarding this issue. My team leader is also at a loss.

If this exercise is simply reduced to a popularity contest, then here are my brief comments:

KEEP Morse as it is.

DO NOT allow automatic upgrades

DO NOT allow Technician Plusses to become Volunteer Examiners (97.504(a)(2))

Now you can go on to doing something else or continue to read my detailed analysis.

May I refer you to the excellent response by Steve Tolley, KL7FZ, even if you don't knit?

Thank you for reading my thoughts on this most serious issue.

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Vancouver WA 98685-4008

My specific comments on this NPRM follow:

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I INTRODUCTION

2 1 WRC 03 Final Acts allow each administration the option for code/no code or a partial combination with respect to the 1991 “Codeless Tech”.

Morse is now set at 5 WPM for good or bad.

A new first level license class is needed; see my mail-in attachment.

3 2 I feel the dismissed petitions (or parts of them) will resurface.

3 3 The FCC wants to eliminate all code requirements. Is this a popularity contest with a high number of Technicians who would directly benefit or is it based on the intellect of the responder as evidenced by many form letters and much poor grammar?

Note that subparagraph (2) uses “may”, which is a permissive term.

Subparagraph (3) portends a recodification by emission. There is at least one RM ready to be submitted, if it hasn’t been already.

III BACKGROUND

3 4 As usual, FCC pays lip service to Part 97.1 which has been unchanged since April 1951.

97.3(a)(4) states”...without pecuniary interest.”, yet paragraphs 49 and 50 refer to SBA etc., which seem to be diametrically opposed.

4 5 A parenthetical note: my late wife was a “No Code Tech”.

6 6 Sentence 3- is this statement an FCC indication that Morse is not “modern”?

Sentence 5- but it was left to the individual administrations and was not mandated.

7 7 Is this somehow tied to the No Code International statement that they would bring congressional pressure to bear if no action was taken by July 22?

#### IV DISCUSSION

##### A Licensing Requirements

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5 8 "...advancing operational **and** technical skills." is mentioned without indicating the parameters for accomplishing these goals. What does the FCC really have in mind?

6 9 Reference footnote 30, RM-10807 at 3.3.2 (second paragraph) calls for a maximum of 12% that could be added to the written element score. It did NOT eliminate Morse entirely.

Sentence 3- Ham Radio, per se, is a "recreational activity" comprised of many modes of operation, ALL by the operator's own choice.

6 10 How does the NCVEC define "special equipment"?

7 11 See the above reference to RM-10807.

7, 8 12 I would prefer to keep the Morse requirements as they now stand, thru although 5 WPM is slow for communication purposes. Years ago, 12 13 WPM was the defacto world standard for HF privileges.

9 14 I agree with Mr. Napurano's sentiments, even though he has been overruled by the FCC.

9 15 Apparently, Article 25.6 is very non-definitive in its wording. It gives nothing in the way of worldwide standards, therefore the FCC can do pretty much as it wishes, public opinion notwithstanding.

9 16 Sentence 1- How and where is "proper operation" specifically defined by the FCC and how will they enforce this definition? How often are enforcement measures taken?

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10 17 Sentence 3- how does the response of some 6200 truly represent the over 722,657 licensed operators as listed October 10, 2005 on www.hamdata.com? This is approximately 0.8%. For your reference:

Novice	32,995
Tech	297,310
Tech Plus	53,621
General	146,838
Advanced	82,060
Extra	109,833

Total 722,657 of which 425,347 have passed Morse  
This is 58.9%

10 18 Sentence 2- ALL stations should be run in a “safe and effective operation” no matter what the mode and class license the control operator holds.

Sentence 4- The word “tentatively” gives the FCC leeway, compromise and wiggle room Thus, they might just keep Morse for the Extra (until the next round of inevitable RM’s) and be able to keep their white good guy hats (Stetsons??), saying “Well, we tried to hold them at the pass...”

11 19 Sentence 4- The wording “actually use” applies equally to any mode chosen by the operator. Looking at the current Question Pools:

Element 2 covers AM/SSB, FM, and digital

Element 3 covers AM/SSB FM, PM and digital

Element 4 covers CW, AM/SSB, FM, PM, television,

digital (AMTOR, ASCII, packet, fax, spread spectrum)

Would the FCC care to speculate on how many new Extras use CW versus spread spectrum, yet spread spectrum is in the pool. Sorry, I forgot: it’s the NCVEC that now defines the pool content. But be a sport and make a guess.

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11 20 Sentence 2- It is a given that a large percent of ARES and RACES operators are Technicians, in concert with their relative number to the total. Thus, VHF voice is the emission of choice for local communications. In some areas, repeaters work well. However, they do not work as well in lowlands, especially after weather disasters. HF is needed for longer distances, with a General or higher control operator. I would especially refer you to Charles Young's (AG7YO) response to this NPRM.

Sentence 3 alludes to 97.1(a), stating that there is no requirement to be involved in emergency communications. Does this mean, at least by implication, that there is therefore no requirement to follow at least the intent of this section and therefore all of Part 97?

This section came into law on 1951, after very heated debate, as seen in my research of QST CD's and other publications of that time. I have not been able to find a clear cut discussion of how the FCC defines the terminology used therein. If it is no longer valid, then let's throw it out and go from a defined service into an unregulated hobby, as many seem to want.

11 21 Sentence 1- It has been traditional that writtens cover greater technical depth.

Sentence 5- Amateur Extra should be Advanced

I have no comment on Paragraphs 22 and 23 and generally support 24.

14 25 HOORAY!! I commend the FCC for holding to 97.501 and not "Grandparenting" by doing automatic upgrades. The 2000 change in Morse speed down to 5 WPM validly permitted those who took Element 3 before it was split to attain the General license. This NPRM is a whole different ball game.

Does the FCC have any data on upgrades due to the decreased speed?

Pg	Para	
15	26	Sentences 2 and 3- The Tech Plus has passed elements 1 and 2, so the applicant only needs element 3 to get the General under the present regulations, so what was the intent, other than verifying Element 1?
15	27	Sentence 1, 2, 3- I generally agree with this concept. See the attachment to my mailed in comments. I generally agree with the rest of this paragraph.
16	28	Sentence 1- I am against any automatic upgrading. Sentence 2- I fail to see the idea of “orphaned”. A lot of Advanceds are still very active, including one of the authors. Sentence 3- I oppose this concept.
16	29	I feel the entry licensees do not have as comprehensive an idea of the many aspects of amateur radio and that the extinct Novice provided more arenas than the Codeless Tech. I also feel the Morse requirements should remain intact.
17	30	Sentence 2- I generally concur, but how many will upgrade, even with the question pool available?
17	31	I fully concur.
18	32	I concur with the concept. However, with respect to the longevity of the Advanced class, consider this scenario: Joe Ham got the last Class A license at age 18 in 1951. If he lives until the average age of 74, he is 72 and will die in 2007. Jane Amateur got the next to last one and will pass in 2013. So, this class will be around for a while (thankfully). Now try this again with the last Advanced licensee...
8	33	Where can I get copies of the FCC/NCVEC agreements? They aren’t (easily) found at <a href="http://www.ncvec.org">www.ncvec.org</a> .
19 thru	34 37	Precisely, what skill levels, other than abject memorization, does the FCC require for testing and to show compliance with “perform properly” (97.503(b))?

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20	38	Why shouldn't the FCC maintain oversight on the NCVEC, or is this just another facet of the overall deregulation plan?
21	39	I concur. The testing should be of sufficient level to assure that each licensee has a fundamental understanding of the principles and operation of general communications systems, to understand the concept of the mode used.
	40	Educationally, the purpose of testing is to assure that the applicant has acquired sufficient knowledge of the subject matter at that point. I know of no institution of post high school level that permits instant retesting upon failure.
22	40	As a retired college educator, I found the purpose of testing is to assure the students have an adequate knowledge of the material at that point. I know of no educational institution that allows instant retesting. Prior to the VE system, FCC office retesting was 60 days (Sect. 152.01, 1939 License Manual) and then went to 30 days (Sect. 12.49, 1951 License Manual). Commercial retesting was 60 days. So, what is really accomplished by instant retesting with respect to demonstrated usable knowledge that the writtens are supposed to provide?
22	41	There never has been a method to assure that the same test will not be given at a later VE session. I feel there should be.
	42	Sentence 3- Isn't it the sole responsibility of the applicant to be prepared, no matter what test is being taken?
22	43	With regard to VEC's decertifying VE's, what is the record by
	thru	individual VEC's? Are some more prone to irregularities?
	46	How many decertifications have actually occurred?

## V. CONCLUSION

23	47	Most emphatically, I do not concur, for reasons listed above and further detailed in my mail in comments.
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VI. PROCEDURAL MATTERS

- 24 48 I cannot comprehend why or how an Amateur Radio Service applicant  
thru can be described as a business of any size. The Federal Aviation has no  
49 similar procedure for testing applicants for certification. Being a  
pilot and mechanic, I called my local Flight District Standards Office and  
explained the paragraphs. The first comment from that responder was  
“HUH??” Detailed discussion showed that they do not and never have  
applied the small business concept to their testing of applicants. So, why  
does the FCC?
- 24 50 If Morse is eliminated, the market for training materials will become slim  
indeed.
- 25 56 In accordance with this paragraph and discussion with the Gettysburg  
office, I will also file paper copies including a revision to the licensing  
scheme, since it is no longer available online at [www.spar-hams.org](http://www.spar-hams.org).