Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of the Commission's Rules	)	WT Docket No. 10-177
Concerning Commercial Radio Operators	)	

NOTICE OF PROPOSED RULE MAKING

Adopted: August 31, 2010 **Released: September 8, 2010**

Comment Date: [30 days after publication in the Federal Register]
Reply Comment Date: [45 days after publication in the Federal Register]

By the Commission:

I. INTRODUCTION

1. In this item, we propose to amend our rules concerning commercial radio operator licenses for maritime and aviation radio stations. Our rules require that a person who operates, maintains, or conducts the mandatory inspection of certain maritime and aviation radio stations hold an appropriate commercial radio operator license. By this *Notice of Proposed Rule Making*, we initiate a proceeding to propose changes to Part 13 of the Commission's Rules regarding commercial radio operator licensing, and to related rules in Parts 0, 1, 80, and 87 regarding certain functions performed by licensed commercial radio operators, to determine which rules can be clarified, streamlined, or eliminated.

II. BACKGROUND

2. A commercial radio operator license is required to operate certain ship, aircraft, and ground stations;[1] and to repair and maintain maritime and aviation radio stations.[2] In addition, only technicians holding an appropriate commercial radio operator license may conduct compulsory ship inspections.[3] Part 13 sets forth eligibility requirements for the different classes of commercial radio operator licenses and permits,[4] and prescribes the manner and conditions under which commercial radio operators are

[1] *See* 47 C.F.R. §§ 80.159, 87.89. An operator license is no longer required for coast stations. *See* Amendment of the Commission's Rules Concerning Maritime Communications, *Second Memorandum Opinion and Order and Fifth Report and Order*, PR Docket No. 92-257, 17 FCC Rcd 6685, 6716 ¶ 71 (2002); 47 C.F.R. § 80.153(a).

[2] *See* 47 C.F.R. §§ 80.167, 80.169, 87.73.

[3] *See* 47 C.F.R. § 80.59. Formerly, the Commission conducted inspections of all United States ships required by statute or treaty to be inspected. In 1998, the Commission amended its rules to authorize private sector technicians to conduct the inspections. *See* Amendment of the Commission's Rules Concerning the Inspection of Radio Installations on Large Cargo and Small Passenger Vessels, *Report and Order*, CI Docket No. 95-55, 13 FCC Rcd 13556 (1998).

[4] There currently are eleven commercial radio operator licenses and six types of endorsements. *See* 47 C.F.R. § 13.7(b), (c). The eleven licenses are First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, General Radiotelephone Operator License (GROL), Marine Radio Operator Permit (MROP), Restricted Radiotelephone Operator Permit, (continued ....)

licensed.

III. DISCUSSION

A. Commercial Operator Licensing Issues

3. *Radiotelegraph Operator's Certificates.* A radiotelegraph operator certificate authorizes the holder to operate, repair, and maintain ship and coast radiotelegraph stations in the maritime services (and to operate certain radiotelephone stations), but radiotelegraph generally has been replaced in the maritime services by the Global Maritime Distress and Safety System (GMDSS).[5] The Commission currently issues three classes of radiotelegraph operator certificates.[6] First and Second Class Radiotelegraph Operator's Certificates convey the same authority and have similar eligibility requirements,[7] except that an applicant for a First Class Radiotelegraph Operator's Certificate must have one year of experience in sending and receiving public correspondence by radiotelegraph.[8] The requirements for a Third Class Radiotelegraph Operator's Certificate, which conveys less authority than the other classes of radiotelegraph operator certificate, are somewhat less stringent.[9] Over the five-year period ending December 31, 2009, the Commission issued one First Class Radiotelegraph Operator's Certificate, eighty-eight Second Class Radiotelegraph Operator's Certificates, and ten Third Class Radiotelegraph Operator's Certificates.

4. Michael Stranathan requests that we eliminate the one-year experience requirement for a First Class Radiotelegraph Operator's Certificate.[10] He argues that it is difficult, if not impossible, to meet

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Restricted Radiotelephone Operator Permit-Limited Use, Global Maritime Distress and Safety System (GMDSS) Radio Operator's License, Restricted GMDSS Radio Operator's License, GMDSS Radio Maintainer's License, and GMDSS Radio Operator/Maintainer License. *See* 47 C.F.R. § 13.7(b). The six license endorsements are Ship Radar Endorsement; Six Months Service Endorsement; restrictive endorsements relating to physical disability, English language or literacy waivers, or other matters; an endorsement stating that MROPs do not authorize the operation of broadcast stations; a similar endorsement on GROLs; and an endorsement related to the inability to perform certain critical safety-related functions due to an uncorrected physical disability. *See* 47 C.F.R. § 13.7(c).

[5] *See* Amendment of Part 13 of the Commission's Rules to Privatize the Administration of Examinations for Commercial Operator Licenses and to Clarify Certain Rules, *Report and Order*, FO Docket No. 92-206, 8 FCC Rcd 1046, 1050 n.53 (1993) (*COLEM Report and Order*) ("[W]ith the implementation of GMDSS, radiotelegraph operators are being phased out. Therefore, we may combine or eliminate the three radiotelegraph certificates in the future."). The GMDSS is a ship-to-shore and ship-to-ship distress communications system using satellite and digital selective calling technology. Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications, *Memorandum Opinion and Order, Third Report and Order, and Third Further Notice of Proposed Rule Making*, WT Docket No. 00-48, 21 FCC Rcd 10282, 10283 n.2 (2006) (*GMDSS Third Report and Order*).

[6] *See* 47 C.F.R. § 13.7(a)(1)-(3).

[7] *See* 47 C.F.R. § 13.8(a), (b). Applicants for both First and Second Class Radiotelegraph Operator's Certificates must pass written elements 1 (basic radio law and operating practice), 5 (radiotelegraph operating practice), and 6 (advanced radiotelegraph). *See* 47 C.F.R. § 13.201(b)(1), (2). First Class applicants also must pass a twenty-five words per minute (wpm) Morse code test, while Second Class applicants must pass a twenty wpm test. *See* 47 C.F.R. § 13.201(b)(1), (2). A First or Second Class Radiotelegraph Operator's Certificate is required to meet the statutory criteria for radio officers. *See* 46 U.S.C. § 7103(a); 47 U.S.C. § 153(34)(A).

[8] *See* 47 C.F.R. § 13.201(b)(1).

[9] Specifically, applicants must pass written elements 1 and 5, and a twenty wpm Morse code test. *See* 47 C.F.R. § 13.201(b)(3).

[10] Michael L. Stranathan, Petition for Rulemaking (filed May 14, 2009).

because ships no longer maintain radiotelegraph stations (instead utilizing GMDSS and other advanced technology) and there are only a handful of radiotelegraph coast stations (typically historical preservation society efforts).[11] We agree that the one-year requirement is almost impossible to meet, and that retaining it in our rules serves no purpose. Rather than simply eliminating the requirement, which would leave First and Second Class Radiotelegraph Operator's Certificates with identical requirements, we believe that we should cease granting new First Class Radiotelegraph Operator's Certificates. We therefore propose to amend the rules to provide that applications for new First Class Radiotelegraph Operator's Certificates will no longer be accepted.

5. We also propose to amend the rules to provide that applications for new Third Class Radiotelegraph Operator's Certificate will no longer be accepted. A Third Class Radiotelegraph Operator's Certificate formerly was required to operate certain radiotelegraph coast stations, but that requirement is no longer in effect. As a practical matter, a Third Class Radiotelegraph Operator's Certificate now conveys the same authority as a Marine Radio Operator Permit.[12] We therefore conclude that we may cease granting new Third Class Radiotelegraph Operator's Certificates.

6. We also propose, in the event that we cease granting new First and Third Class Radiotelegraph Operator's Certificates, to designate the remaining class of radiotelephone operator's certificate as a Radiotelegraph Operator's Certificate, rather than continuing to call it a Second Class Radiotelegraph Operator's Certificate. We would clarify in the rules that a Radiotelegraph Operator's Certificate is equivalent to a Second Class Radiotelegraph Operator's Certificate. Under these proposals, licensees could renew existing radiotelegraph operator certificates, and would continue to receive credit toward the requirements for other licenses,[13] but existing First and Second Class Radiotelegraph Operator Certificates would be renewed as Radiotelegraph Operator Certificates.

7. We also seek comment on whether the current five-year license term for radiotelegraph operator certificates[14] should be extended to ten years, or even to the lifetime of the holder. In 2006, the Commission extended to the lifetime of the holder the license terms for all commercial radio operator licenses that were not already valid for life, except radiotelegraph operator certificates.[15] The Commission concluded that the renewal process imposed an unnecessary paperwork and filing fee burden, inasmuch as licensees' continued competency is not in any way assessed upon renewal, and there was no reason to treat those licenses differently from those that already had lifetime terms.[16] We seek comment on whether there is any reason to treat radiotelegraph operator certificates differently from other commercial radio operator licenses in this regard, whether any public interest is served by the renewal requirement, and whether the requirement imposes an unnecessary burden.

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[11] *See id.* at 3; *see also* Robert E. Griffin, *Letter*, 22 FCC Rcd 3696 (WTB MD 2007) (applicant requested waiver of one-year requirement on the grounds that it can no longer be met).

[12] *See* 47 C.F.R. § 13.8(c).

[13] *See* 47 C.F.R. § 13.9(d)(1).

[14] *See* 47 C.F.R. § 13.15(a).

[15] *See GMDSS Third Report and Order*, 21 FCC Rcd at 10305 ¶ 41 (extending the license term for GMDSS Radio Operator's Licenses, Restricted GMDSS Radio Operator's Licenses, GMDSS Radio Maintainer's Licenses, GMDSS Operator/Maintainer Licenses, and MROPs). GROLs, Restricted Radiotelephone Operator Permits, and Restricted Radiotelephone Operator Permits-Limited Use already were valid for life. *See* Requirements for Licensed Operators in Various Radio Services, *Report and Order*, Gen. Docket No. 83-322, 96 F.C.C. 2d 1123, 1139-40 ¶ 30 (1984).

[16] *See GMDSS Third Report and Order*, 21 FCC Rcd at 10305 ¶ 41. Radiotelegraph operator certificates were not considered in that action because the petition for rulemaking on which the Commission was acting did not request it. *See* Richard H. Weil, Petition for Rulemaking, RM-10647 (filed Nov. 22, 1999).

8. Finally, we note that Section 13.11 of the Commission's Rules prohibits a radiotelegraph operator's certificate holder from also holding another unexpired radiotelegraph operator's certificate, or a Marine Radio Operator Permit, or a Restricted Radiotelephone Operator Permit.[17] The origin of these prohibitions is unclear. We believe that it is unlikely that a person would want to hold these different licenses at the same time, and we do not believe that such licensing would be contrary to the public interest. We therefore propose to streamline the rule to eliminate these prohibitions.

9. *Restrictive Endorsements.* Part 13 provides that Marine Radio Operator Permits and General Radiotelephone Operator Licenses shall bear an endorsement stating that the license does not confer authority to operate a broadcast station.[18] These endorsements were first affixed when a different commercial radio operator license was required to operate a broadcast station. That requirement is no longer in effect,[19] so we tentatively conclude that these endorsements are no longer necessary, and seek comment on our proposal to amend Section 13.7 of the Rules accordingly.

10. Section 13.7 also provides that the license of a person with "an uncorrected physical handicap" that would prevent the performance of the duties of a radio operator during an emergency shall bear the following restrictive endorsement: "This license is not valid for the performance of any operating duties, other than installation, service and maintenance duties, at any station licensed by the FCC which is required, directly or indirectly, by any treaty, statute or rule or regulation pursuant to statute, to be provided for safety purposes."[20] When Commission staff administered commercial radio operator license examinations, they could determine whether an applicant had an uncorrected physical disability that would prevent him or her from performing the duties of a radio operator during an emergency. Now that the examinations are administered by private entities known as commercial operator license examination managers (COLEMs), however, Commission staff cannot make that determination. We therefore propose to eliminate the endorsement. We believe that it is more appropriate for employers to determine, on a case-by-case basis, the extent to which an individual is capable of performing the essential functions and duties of a radio operator.[21] We seek comment on this proposal.

11. *Valid Mailing Address.* Section 13.10 of the Commission's Rules requires commercial radio operator license applicants to specify a valid mailing address.[22] The amateur service rules set forth an analogous requirement, but also authorize the Commission to revoke or suspend an amateur license if Commission correspondence is returned as undeliverable because the applicant failed to provide a correct

[17] 47 C.F.R. § 13.11(a).

[18] 47 C.F.R. § 13.7(c)(4), (5). Specifically, MROPs must bear an endorsement stating, "This permit does not authorize the operation of AM, FM or TV broadcast stations," and GROLs must be endorsed as follows: "This license confers authority to operate licensed radio stations in the Aviation, Marine and International Fixed Public Radio Services only. This authority is subject to: any endorsements placed upon this license; FCC Orders, rules, and regulations; Unites States statutes; and the provisions of any treaties to which the United States is a party. This license does not confer any authority to operate broadcast stations. It is not assignable or transferable."

[19] *See* Amendment of Part 13 of the Commission's Rules to Privatize the Administration of Examinations for Commercial Operator Licenses and to Clarify Certain Rules, *Notice of Proposed Rule Making*, FO Docket No. 92-206, 7 FCC Rcd 5890, 5892 (1992).

[20] *See* 47 C.F.R. § 13.7(c)(6)(i).

[21] *See* 29 C.F.R. §§ 1630.10, 1630.15.

[22] 47 C.F.R. § 13.10.

address.[23] We propose to add such language to Section 13.10, to further our ability to contact licensees to make inquiries and enforce our rules. We seek comment on this proposal.

B. COLEM Issues

12. *Maintenance of Question Pools.* An applicant must pass a written examination in order to obtain most types of commercial radio operator license.[24] The questions for each examination are taken from common Commission-approved question pools[25] that are periodically updated.[26] Formerly, the Commission administered the examinations, but it amended its rules in 1993 to delegate the preparation and administration of commercial operator license examinations to COLEMs.[27] The COLEM organization must sign an agreement with the Commission to coordinate the examinations, agree not to discriminate in the coordination of the examinations, and maintain examination and financial records and make them available to the Commission.[28] COLEMs generally file license applications on behalf of successful examinees.[29]

13. When the Commission privatized the administration of commercial radio operator license examinations, it retained responsibility for maintaining the question pools, but stated that it hoped that the private sector, particularly the COLEMs, would provide input to keep the questions up-to-date.[30] Since then, the private sector has taken the primary responsibility for updating the question pools. The Wireless Telecommunications Bureau reviews and approves proposed updates, but no longer generates question pools itself.[31]

14. In contrast, the volunteer examiner-coordinators (VECs) that administer examinations for amateur radio operator licenses maintain the question pools for those examinations.[32] Our rules set the

[23] 47 C.F.R. § 97.23. This language was added to the rule in 1994. *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 (PRB 1994).

[24] *See* 47 C.F.R. § 13.201. As noted above, radiotelegraph license applicants also must pass a Morse code test. *Id.*

[25] *See* 47 C.F.R. § 13.215. The question pool for each examination element contains at least five times the number of questions required for the examination for that element. To administer an examination, the appropriate number of questions is taken from the question pool and compiled into a question set. *See id.*

[26] *See GMDSS Third Report and Order*, 21 FCC Rcd at 10304-05 ¶¶ 40-41.

[27] *See COLEM Report and Order*, 8 FCC Rcd at 1047 ¶ 5.

[28] *See* 47 C.F.R. §§ 13.213, 13.217.

[29] *See* Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Report and Order*, WT Docket No. 98-20, 13 FCC Rcd 21027, 21040 (1998).

[30] *See COLEM Report and Order*, 8 FCC Rcd at 1048-49 ¶ 14. Commenters were divided as to whether the question pools should be maintained by the COLEMs or by the Commission. *See id.* at 1048 ¶ 13.

[31] *See, e.g.*, Wireless Telecommunications Bureau Approves New Commercial Operator License Examination (COLE) Question Pools for Elements 1, 3, and 8, *Public Notice*, WT Docket No. 09-43, 24 FCC Rcd 8486 (WTB 2009); Wireless Telecommunications Bureau Approves New Commercial Operator License Examination (COLE) Question Pools for Elements 7 (Global Maritime Distress and Safety System (GMDSS) Radio Operating Practices) and 7R (Restricted GMDSS Radio Operating Practices), *Public Notice*, 21 FCC Rcd 8701 (WTB 2006). The Commission delegated authority to modify the question pools to what is now the Wireless Telecommunications Bureau. *See COLEM Report and Order*, 8 FCC Rcd at 1049 ¶ 14.

[32] *See* 47 C.F.R. § 97.523.

minimum number of questions and require that the pools be available to the public, but the Commission plays no official role in maintaining or updating the question pools. Delegating this authority to the VECs has allowed the pools to be updated more timely than if Commission action were required.[33] Given that delegating authority for maintaining the amateur question pools to the VECs has proven beneficial, we propose to amend the rules to make the COLEMs responsible for maintaining the question pools for commercial radio operator examinations. We believe that this will allow for faster revisions of the question pools without unduly burdening COLEMs. We seek comment on this proposal.

15. *Examination Results.* Section 13.211(e) of our Rules currently requires COLEMs to notify examinees of their examination results (and issue a proof-of-passing certificate to successful examinees) within ten days.[34] In light of subsequent developments, such as computerized grading, we propose to amend the rule to shorten this period to three business days.[35] We seek comment on this proposal.

16. *Electronic Filing.* VECs, as well as Part 90 frequency coordinators, are required to file applications that they submit on behalf of applicants electronically via the Commission's Universal Licensing System (ULS).[36] No such requirement currently applies to COLEMs, but most COLEMs already file applications electronically.[37] Electronic filing reduces errors, expedites application processing, and saves Commission resources.[38] We therefore propose to require all COLEMs to file applications electronically via ULS. We seek comment on this proposal.

17. *Record Submission.* Section 13.217 of the Commission's Rules requires COLEMs to "maintain records of expenses and revenues, frequency of examinations administered, and examination pass rates," and submit them to the Commission as directed.[39] The Commission stated when it privatized the administration of examinations for commercial radio operator license examinations that COLEMs must submit this information annually.[40] The Commission also indicated that COLEMs' requests to change their fee structure would need to be supported by the information in the annual report.[41] The Wireless Telecommunications Bureau collects the information submitted by the COLEMs, and periodically releases a summary.[42]

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[33] *See* Amendment of Part 97 of the Commission's Rules to Implement WRC-03 Regulations Applicable to Requirements for Operator Licenses in the Amateur Radio Service, *Notice of Proposed Rule Making and Order*, WT Docket No. 05-235, 20 FCC Rcd 13247, 13266-67 ¶ 38 (2005).

[34] *See* 47 C.F.R. § 13.211(e).

[35] Our understanding is that COLEMs usually provide results faster than that, often immediately after completion of the examination.

[36] *See* 47 C.F.R. §§ 1.913(e), (f), 97.519(b)(3).

[37] *See* Wireless Telecommunications Bureau to Begin Use of Universal Licensing System for Licensing in Commercial Radio Operator Services on May 21, 2001; Deployment Means Conversion of All WTB Services to ULS Is Now Complete, *Public Notice*, 16 FCC Rcd 9472 (WTB 2001); 47 C.F.R. §§ 13.9(c), 13.13(c).

[38] *See* 1998 Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules, and Processes, *Notice of Proposed Rule Making*, MM Docket No. 98-43, 13 FCC Rcd 11349, 11353 ¶ 7 (1998).

[39] 47 C.F.R. § 13.217.

[40] *See COLEM Report and Order*, 8 FCC Rcd at 1049 ¶ 18.

[41] *Id.*

[42] *See, e.g.*, Wireless Telecommunications Bureau Releases Commercial Operator License Examination (COLE) Quarterly Statistical Reports and Annual Financial Reports for 2004-2008, *Public Notice*, 24 FCC Rcd 3582 (WTB 2009).

18. We tentatively conclude that it is no longer necessary to require COLEMs to file this information on a regular basis. Instead, we would retain our discretion to require COLEMs to submit such records upon request, such as in connection with requests for approval of fee changes. This would reduce the paperwork burden on COLEMs, and the recordkeeping burden on Commission staff. Because this proposal represents a change to our current practice, we seek comment on whether any rule changes would be appropriate if we terminate the current filing requirement. For example, if COLEMs will no longer file information regularly, should the current one-year record retention period[43] be extended?

19. *Fee Structure*. We also seek comment on whether we should continue to require COLEMs to obtain Commission approval for changes in their fee structure for administering examinations. We note that VECs are not required to seek prior approval to change their fees.[44] We also note that COLEM fees are posted on the Commission's website, and that the fees are somewhat comparable.[45] We believe that the fact that prospective examinees generally have a choice of COLEMs operates to keep fees reasonable.[46]

C. Equipment Testing and Logging Requirements

20. Because the instant proceeding relates to duties performed by commercial radio operator license holders, we take this opportunity to seek comment on harmonizing and perhaps consolidating the several Part 80 rules that pertain to the testing of maritime radio equipment, and the associated logging requirements. Currently, the testing requirements are set forth in the subpart pertaining to the relevant equipment.[47] As an initial matter, we request comment on whether we should instead set forth all of the equipment testing requirements in a single consolidated rule in Part 80. We anticipate that such a rule would specify the testing interval for each piece of equipment – pre-departure, daily, weekly, or monthly – and provide any needed guidance regarding the test procedure.[48] Interested parties should also suggest whether any existing testing requirements should be relaxed or tightened. Further, we also believe it may be advantageous to more closely link the testing requirements with the log-keeping requirements, given that equipment tests must be logged. We therefore invite comment on whether and how the Commission might amend Section 80.409 of the Rules[49] to that end, perhaps by combining the rule with the consolidated rule on testing, or situating it adjacent to that rule. Commenters should also consider

[43] *See* 47 C.F.R. § 13.217.

[44] VECs are limited to reimbursement for out-of-pocket expenses incurred in administering amateur operator license examinations, but are no longer subject to a cap on the allowable fee. *See* 47 C.F.R. § 97.527; 1998 Biennial Regulatory Review – Amendment of Part 97 of the Commission's Amateur Service Rules, *Memorandum Opinion and Order*, WT Docket No. 98-143, 16 FCC Rcd 8076, 8090-91 ¶ 33 (2001).

[45] *See* http://wireless.fcc.gov/commoperators/index.htm?job=cole.

[46] *See COLEM Report and Order*, 8 FCC Rcd at 1049 ¶ 18 ("We believe that multiple managers will allow an examinee to select the manager that best meets his or her needs and that competition between managers will help ensure reasonable fees.").

[47] *See, e.g.*, 47 C.F.R. §§ 80.101 (radiotelephone testing procedures – Subpart C), 80.869 (test of radiotelephone station – Subpart R); 80.931 (test of radiotelephone installation – Subpart S); 80.971 (test of radiotelephone installation – Subpart T); 80.1023 (test of radiotelephone installation – Subpart U); 80.1095(c) – test of survival craft equipment on GMDSS vessels – Subpart W).

[48] We believe that such a rule could be codified in Subpart C of Part 80, and could include cross-references to the new consolidated rule in each of the relevant subparts of Part 80.

[49] *See* 47 C.F.R. § 80.409.

whether Section 80.59,[50] the rule governing compulsory ship inspections, should be clarified or streamlined as a related matter. We request that commenters suggesting revisions to any or all of these rules make their proposals as specific as possible, providing recommended language for the rule changes and indicating where the rules should be codified.

21. In a separate proceeding, we denied a petition for reconsideration, filed by Owen Anderson and Kurt Anderson,[51] requesting that the Commission undertake a broad revision of the maritime equipment testing and logging rules, and suggesting specific amendments to Part 80.[52] We denied the petition because these issues were beyond the scope of the proceeding, but suggested that they could be addressed in another rulemaking proceeding.[53] We therefore add the Andersons' petition to the record of this proceeding, and request comment on whether and how to harmonize the Part 80 equipment testing and logging requirements, with specific reference to the detailed proposals in the Andersons' petition.[54]

D. Administrative Issues

22. We propose to delete Section 0.489 of the Commission's Rules, pertaining to applications for ship radio inspections.[55] The provision is obsolete, because the Commission has privatized the ship inspection process, and no longer conducts inspections on a regular basis.[56] Finally, we take this opportunity to propose certain minor editorial amendments to rules that relate to commercial radio operator licenses: (1) replace the term "physical handicap" with "physical disability;"[57] (2) delete

[50] *See* 47 C.F.R. § 80.59.

[51] Owen Anderson and Kurt Anderson, Petition for Reconsideration, WT Docket No. 00-48, at 12-30 (filed Feb. 25, 2008) (Anderson Petition).

[52] *See* Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications, *Fourth Report and Order and Second Memorandum Opinion and Order*, WT Docket No. 00-48, 25 FCC Rcd 7781, 7793-94 ¶ 21 (2010).

[53] *Id.* Commenters should note that some proposals in the Anderson Petition already have been adopted. The Andersons propose, for example, that vessel operators be relieved of the requirement to log digital selective calling distress acknowledgments or relays other than those pertaining to the operator's own vessel. *Id.* at 6. The Commission has amended the Part 80 rules to that effect. *See GMDSS Third Report and Order*, 21 FCC Rcd at 10293-94 ¶ 19; 47 C.F.R. § 80.409(e)(1). Similarly, the Andersons propose the removal of all 500 kHz watch requirements. *See* Anderson Petition at 20-22. The Commission has deleted all references to 500 kHz watches as obsolete. *See* Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications, *Report and Order and Further Notice of Proposed Rule Making*, 17 FCC Rcd 6741, 6760 ¶ 45 (2002) (*GMDSS Report and Order*).

[54] We believe that the Andersons' proposals may provide a suitable starting point for addressing this issue, but we emphasize that interested parties are invited to suggest alternative frameworks or different specific rule amendments. For example, with respect to whether we should set forth all of the equipment testing requirements in a single consolidated rule in Part 80, the Andersons favor placing "[a]ll the required equipment tests for compulsory [*i.e.*, GMDSS-required] equipment in a single new section" in Subpart W of Part 80, *see* Anderson Petition at 14, while the United States Coast Guard (USCG) favors the creation of an entirely new subpart in Part 80 for the equipment testing requirements. *See* USCG Comments on Anderson Petition at 5.

[55] *See* 47 C.F.R. § 0.489.

[56] *See* 47 C.F.R. § 80.59(a)(1).

[57] *See* 47 C.F.R. §§ 13.7(c)(3), 13.209(h), 80.151(c)(3). This is in keeping with the most current statutory terms used in the Americans with Disabilities Act. *See* Amendment of Part 1, Subpart N of the Commission's Rules (continued ....)

obsolete references to an old information bulletin,[58] the Public Safety and Private Wireless Division,[59] Part 23 international fixed public radio services,[60] Subpart Q of Part 80,[61] and written element 2;[62] and (3) streamline Sections 13.9, 13.17, and 13.209 by consolidating certain paragraphs.[63] We ask for comment on these proposed changes, and on any other changes, corrections, or clarifications of the rules governing commercial radio operators that commenters believe are needed.

IV. PROCEDURAL MATTERS

23. *Regulatory Flexibility Analysis.* The Regulatory Flexibility Act of 1980, as amended (RFA),[64] requires that a regulatory flexibility analysis 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."[65] As required by the RFA,[66] the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this *Notice of Proposed Rule Making* (*NPRM*). The analysis is found in Appendix A. We request written public comment on the IRFA. Comments must be filed in accordance with the same filing deadlines for comments on the *NPRM*, and must have a separate and distinct heading designating them as responses to the IRFA. The Commission will send a copy of this *Notice of Proposed Rule Making*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

24. *Paperwork Reduction Analysis.* This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the

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Concerning Non-Discrimination on the Basis of Disability in the Commission's Programs and Activities, *Order*, 18 FCC Rcd 4034, 4035 ¶ 2 (2003) (citing 42 U.S.C. § 12101). We also seek comment on whether references to "muteness" and "deafness" should be replaced with other terms. *See* 47 C.F.R. § 13.9(a)(4)(iii).

[58] 47 C.F.R. § 0.483(b). The Commission no longer issues the information bulletin "Commercial Radio Operator Licenses and Permits." The information is now available on the Commission's web site, *see* http://wireless.fcc.gov/commoperators/index.htm?job=home.

[59] 47 C.F.R. § 1.85. The Commission reorganized the Wireless Telecommunications Bureau effective November 13, 2003, and the Public Safety and Critical Infrastructure Division assumed the relevant duties of the Public Safety and Private Wireless Division. *See* Reorganization of the Wireless Telecommunications Bureau, *Order*, 18 FCC Rcd 25414, 25414 ¶ 2 (2003). Pursuant to a Commission reorganization effective September 25, 2005, certain duties formerly assigned to the Public Safety and Critical Infrastructure Division were assumed by the Mobility Division. See Establishment of the Public Safety and Homeland Security Bureau, Order, 21 FCC Rcd 10867 (2006).

[60] *See* 47 C.F.R. §§ 13.5, 13.203(a)(2). Part 23 containing the rules governing International Fixed Public Radiocommunication Services has been removed. *See* Elimination of Part 23 of the Commission's Rules, *Report and Order*, IB Docket No. 05-216, 25 FCC Rcd 541 (2010).

[61] *See* 47 C.F.R. §§ 80.59(a)(1), 80.409(f)(1)(i)(E). Subpart Q was eliminated in 2002. *See GMDSS Report and Order*, 17 FCC Rcd at 6759 ¶ 42.

[62] *See* 47 C.F.R. § 13.203(a)(1). Written element 2 has been consolidated with element 1. *See COLEM Report and Order*, 8 FCC Rcd at 1056.

[63] *See* 47 C.F.R. §§ 13.9(b)(1)-(2), 13.17(c)-(d), 13.209(d)-(e).

[64] The RFA, *see* 5 U.S.C. §§ 601-612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[65] 5 U.S.C. § 605(b).

[66] 5 U.S.C. § 603.

information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the "information collection burden for small business concerns with fewer than 25 employees."

25. *Ex Parte 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).

26. *Alternative formats.* To request materials in alternative formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to <FCC504@fcc.gov> or call the Consumer and Government Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This *NPRM* also may be downloaded from the Commission's web site at <http://www.fcc.gov/>.

27. *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 **[30 days after publication in the Federal Register]** and reply comments **[45 days after publication in the Federal Register]**.

28. Commenters may file comments electronically using the Commission's Electronic Comment Filing System (ECFS), the Federal Government's eRulemaking Portal, or by filing paper copies.[67] Commenters filing through the ECFS can send their comments as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Commenters 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, and should include the following words in the body of the message, "get form." Commenters will receive a sample form and directions in reply. Commenters filing through the Federal eRulemaking Portal <http://www.regulations.gov>, should follow the instructions provided on the website for submitting comments.

29. Commenters who chose to file paper comments must file an original and four copies of each comment. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

30. Commenters may send filings by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of **before** entering the building. Commenters must send commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) to 9300 East Hampton Drive, Capitol Heights, MD 20743. Commenters should address U.S. Postal Service first-class mail, Express Mail, and Priority Mail to 445 12th Street, S.W., Washington, DC 20554.

31. Interested parties may view documents filed in this proceeding on the Commission's Electronic Comment Filing System (ECFS) using the following steps: (1) access ECFS at http://www.fcc.gov/cgb/ecfs. (2) In the introductory screen, click on "Search for Filed Comments." (3) In the "Proceeding" box, enter the numerals in the docket number. (4) Click on the box marked "Retrieve

[67] *See* Electronic Filing of Documents in Rulemaking Proceedings, *Report and Order*, GC Docket No. 97-113, 13 FCC Rcd 11322 (1998).

Document List". A link to each document is provided in the document list. Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, DC, 20554. Filings and comments also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160, or via e-mail www.bcpiweb.com.

V. ORDERING CLAUSES

32. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), 403, that this *Notice of Proposed Rule Making* is HEREBY ADOPTED.

33. IT IS FURTHER ORDERED that NOTICE IS HEREBY GIVEN of the proposed regulatory changes described in this *Notice of Proposed Rule Making* and that comment is sought on these proposals.

34. IT IS FURTHER ORDERED that the petition for rulemaking filed by Michael L. Stranathan on May 14, 2009 IS GRANTED IN PART to the extent set forth herein.

35. 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 Rule Making*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),[1] the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Notice of Proposed Rule Making* in WT Docket No. 10-177 (*NPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* as provided in paragraph 28 of this *NPRM*. The Commission will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.[2] In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the Federal Register.[3]

A. Need for, and Objectives of, the Proposed Rules

We believe it appropriate to review our regulations in relating commercial radio operators to determine which rules can be clarified, streamlined or eliminated. In the *NPRM*, we seek comment on miscellaneous amendments that are intended to clarify Part 13 rules, including the elimination of rules that refer to outdated services, equipment, and technology. In addition, the *NPRM* seeks comment on proposed editorial changes to rules contained in Parts 0, 1, 80, and 87 that relate to commercial radio operator services. We also solicit comment on any other changes, corrections, or clarifications of the rules governing commercial radio operators that commenters believe are needed.

B. Legal Basis for Proposed Rules

The proposed action is authorized under sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 403.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[4] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[5] 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

[1] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, was amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] *Id.* § 603(a).

[3] *See id.*

[4] *See* 5 U.S.C. § 601(6).

[5] *See* 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to the RFA, 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 which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.

additional criteria established by the Small Business Administration (SBA).[6]

Commercial radio licenses are issued only to individuals. Individuals are not "small entities" under the RFA.

Individual licensees are tested by commercial operator license examination managers (COLEMs).[7] The Commission has not developed a definition for a small business or small organization that is applicable for COLEMs. The RFA defines the term "small organization" as meaning "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field ...."[8] All of the COLEM organizations would appear to meet the RFA definition for small organizations.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

There are no projected reporting, recordkeeping or other compliance requirements.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[9]

We believe the changes proposed in this *NPRM* will promote flexibility and more efficient use of the spectrum, without creating administrative burdens on the Commission, COLEMs, or individual licensees. Many of the proposed changes constitute clarification of existing requirements or elimination of reporting requirements and other rules that are outdated. In this *NPRM*, we seek comment on our proposals to modify the rules. Among others, we seek comment on our proposal to require COLEMs to maintain the pool of questions for commercial radio operator license examinations. We believe that this would reduce administrative burden on the Commission and speed up the question pool revision process, without overly burdening COLEMs which already cooperate in creating new question pools. To codify the current business practice of the majority of COLEMs, we seek comment on our proposal to require COLEMs to file applications of behalf of individual applicants electronically. We believe that this too would reduce administrative burden on the Commission, without burdening COLEMs.

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[6] *See* Small Business Act, 5 U.S.C. § 632 (1996).

[7] *See* 47 C.F.R. § 13.211.

[8] *See* 5 U.S.C. § 601(4).

[9] *See* 5 U.S.C. § 603(c).

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

None.

APPENDIX B

Proposed Rules

Parts 0, 1, 13, 80, and 87 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

1. The authority citation for Part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.483 is amended by revising paragraph (b) to read as follows:

§ 0.483 Applications for amateur or commercial radio operator licenses.

* * * * *

(b) Application filing procedures for commercial radio operator licenses are set forth in part 13 of this chapter.

3. Section 0.489 is removed.

4. The authority citation for Part 1 continues to read as follows:

Authority: 15 U.S.C. 79 et seq.; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

5. Section 1.85 is amended to read as follows:

§ 1.85 Suspension of operator licenses.

Whenever grounds exist for suspension of an operator license, as provided in § 303(m) of the Communications Act, the Chief of the Wireless Telecommunications Bureau, with respect to amateur and commercial radio operator licenses, may issue an order suspending the operator license. No order of suspension of any operator's license shall take effect until 15 days' notice in writing of the cause for the proposed suspension has been given to the operator licensee, who may make written application to the Commission at any time within the said 15 days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have 15 days in which to mail the said application. In the event that physical conditions prevent mailing of the application before the expiration of the 15-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be designated for hearing by the Chief, Wireless Telecommunications Bureau and said suspension shall be held in abeyance until the conclusion of the hearing. Upon the conclusion of said hearing, the Commission may affirm, modify, or revoke said order of suspension. If the license is ordered suspended, the operator shall send his operator license to the Mobility Division, Wireless Telecommunications Bureau, in Washington, DC, on or before the effective date of the order, or, if the effective date has passed at the time notice is received, the license shall be sent to the Commission forthwith.

6. The authority citation for Part 13 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

7. Section 13.7 is amended by removing paragraphs (c)(4) through (c)(6)(iv), and revising paragraphs (b)(1), (b)(2), (b)(3), (c), (c)(1), (c)(2), and (c)(3) to read as follows:

§ 13.7 Classification of operator licenses and endorsements.

* * * * *

(b) * * * * *

(1) First Class Radiotelegraph Operator's Certificate. Beginning **[insert effective date]**, no applications for new First Class Radiotelegraph Operator's Certificates will be accepted for filing.

(2) Radiotelegraph Operator's Certificate (formerly Second Class Radiotelegraph Operator's Certificate).

(3) Third Class Radiotelegraph Operator's Certificate (radiotelegraph operator's special certificate). Beginning **[insert effective date]**, no applications for new Third Class Radiotelegraph Operator's Certificates will be accepted for filing.

* * * * *

(c) There are three license endorsements affixed by the FCC to provide special authorizations or restrictions. Endorsements may be affixed to the license(s) indicated in parentheses.

(1) Ship Radar Endorsement (Radiotelegraph Operator Certificate, First and Second Class Radiotelegraph Operator's Certificates, General Radiotelephone Operator License, GMDSS Radio Maintainer's License).

(2) Six Months Service Endorsement (Radiotelegraph Operator Certificate, First and Second Class Radiotelegraph Operator's Certificates)

(3) Restrictive endorsements relating to physical disability, English language or literacy waivers, or other matters (all licenses).

* * * * *

8. Section 13.8 is amended by revising paragraphs (a) and (b) to read as follows:

§ 13.8 Authority conveyed.

* * * * *

(a) First Class Radiotelegraph Operator's Certificate conveys all of the operating authority of the Radiotelegraph Operator's Certificate, the Second Class Radiotelegraph Operator's Certificate, the Third Class Radiotelegraph Operator's Certificate, the Restricted Radiotelephone Operator Permit, and the Marine Radio Operator Permit.

(b) Radiotelegraph Operator's Certificate is equivalent to Second Class Radiotelegraph Operator's Certificate. Second Class Radiotelegraph Operator's Certificate conveys all of the operating

authority of the Third Class Radiotelegraph Operator's Certificate, the Restricted Radiotelephone Operator Permit, and the Marine Radio Operator Permit.

* * * * *

9. Section 13.9 is amended by removing paragraph (b)(2), redesignating paragraph (b)(1) as (b), and revising paragraphs (b), (c), and (f)(4) to read as follows:

§ 13.9 Eligibility and application for new license or endorsement.

* * * * *

(b) Each application for a new General Radiotelephone Operator License, Marine Radio Operator Permit, Radiotelegraph Operator's Certificate, Ship Radar Endorsement, Six Months Service Endorsement, GMDSS Radio Operator's License, Restricted GMDSS Radio Operator's License, GMDSS Radio Maintainer's License, GMDSS Radio Operator/Maintainer License, Restricted Radiotelephone Operator Permit, or Restricted Radiotelephone Operator Permit-Limited Use must be filed on FCC Form 605 in accordance with § 1.913 of this chapter.

(c) Each application for a new General Radiotelephone Operator License, Marine Radio Operator Permit, Radiotelegraph Operator's Certificate, Ship Radar Endorsement, GMDSS Radio Operator's License, Restricted GMDSS Radio Operator's License, GMDSS Radio Maintainer's License, or GMDSS Radio Operator/Maintainer License must be accompanied by the required fee, if any, and submitted in accordance with § 1.913 of this chapter. The application must include an original PPC(s) from a COLEM(s) showing that the applicant has passed the necessary examination element(s) within the previous 365 days when the applicant files the application. If a COLEM files the application electronically on behalf of the applicant, an original PPC(s) is not required. However, the COLEM must keep the PPC(s) on file for a period of 1 year.

* * * * *

(f) * * * * *

(4) The applicant held a FCC-issued Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, or Second Class Radiotelegraph Operator's Certificate during this entire six month qualifying period; and

* * * * *

10. Section 13.10 is amended to read as follows:

§ 13.10 Licensee address.

In accordance with § 1.923 of this chapter all applicants (except applicants for a Restricted Radiotelephone Operator Permit and applicants for a Restricted Radiotelephone Operator Permit--Limited Use) must specify an address where the applicant can receive mail delivery by the United States Postal Service. Suspension of the operator license or permit may result when correspondence from the FCC is returned as undeliverable because the applicant failed to provide the correct mailing address.

11. Section 13.11 is amended by removing paragraphs (a), (a)(1), (a)(2), and (a)(3), and redesignating paragraph (b) as an undesignated paragraph.

12. Section 13.13 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 13.13 Application for a renewed or modified license.

(a) Each application to renew a Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, or Third Class Radiotelegraph Operator's Certificate must be made on FCC Form 605. The application must be accompanied by the appropriate fee and submitted in accordance with § 1.913 of this chapter. (Beginning **[insert effective date]**, First and Second Class Radiotelegraph Operator's Certificates will be renewed as Radiotelegraph Operator's Certificates.)

(b) If a license expires, application for renewal may be made during a grace period of five years after the expiration date without having to retake the required examinations. The application must be accompanied by the required fee and submitted in accordance with § 1.913 of this chapter. During the grace period, the expired license is not valid. A license renewed during the grace period will be effective as of the date of the renewal. Licensees who fail to renew their licenses within the grace period must apply for a new license and take the required examination(s). (Beginning **[insert effective date]**, no applications for new First Class Radiotelegraph Operator's Certificates or Third Class Radiotelegraph Operator's Certificates will be accepted for filing.)

* * * * *

(d) Provided that a person's commercial radio operator license was not revoked, or suspended, and is not the subject of an ongoing suspension proceeding, a person holding a General Radiotelephone Operator License, Marine Radio Operator Permit, Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, GMDSS Radio Operator's License, GMDSS Radio Maintainer's License, or GMDSS Radio Operator/Maintainer License, who has an application for another commercial radio operator license which has not yet been acted upon pending at the FCC and who holds a PPC(s) indicating that he or she passed the necessary examination(s) within the previous 365 days, is authorized to exercise the rights and privileges of the license for which the application is filed. This temporary conditional operating authority is valid for a period of 90 days from the date the application is received. This temporary conditional operating authority does not relieve the licensee of the obligation to comply with the certification requirements of the Standards of Training, Certification and Watchkeeping (STCW) Convention. The FCC, in its discretion, may cancel this temporary conditional operating authority without a hearing.

* * * * *

13. Section 13.15 is amended by revising paragraph (a) to read as follows:

§ 13.15 License term.

(a) Radiotelegraph Operator's Certificates, First Class Radiotelegraph Operator's Certificates, Second Class Radiotelegraph Operator's Certificates, and Third Class Radiotelegraph Operator's Certificates are normally valid for a term of five years from the date of issuance.

* * * * *

14. Section 13.17 is amended by removing paragraph (d), redesignating paragraph (e) as paragraph (d), and revising paragraphs (b) and (c) to read as follows:

§ 13.17 Replacement license.

* * * * *

(b) Each application for a replacement General Radiotelephone Operator License, Marine Radio Operator Permit, Radiotelegraph Operator Certificate, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, GMDSS Radio Operator's License, Restricted GMDSS Radio Operator's License, GMDSS Radio Maintainer's License, or GMDSS Radio Operator/Maintainer License must be made on FCC Form 605 and must include a written explanation as to the circumstances involved in the loss, mutilation, or destruction of the original document.

(c) Each application for a replacement Restricted Radiotelephone Operator Permit or Restricted Radiotelephone Operator Permit-Limited Use must be on FCC Form 605.

* * * * *

15. Section 13.201 is amended by removing paragraphs (b)(1) through (b)(1)(iv) and paragraphs (b)(3) through (b)(3)(ii), redesignating paragraph (b)(2) as (b)(1) and paragraphs (b)(4)-(9) as paragraphs (b)(2)-(7), and revising redesignated paragraph (b)(2) as follows:

§ 13.201 Qualifying for a commercial operator license or endorsement.

* * * * *

(b) * * * * *

(2) Radiotelegraph Operator's Certificate (formerly Second Class Radiotelegraph Operator's Certificate).

* * * * *

16. Section 13.203 is amended by removing paragraphs (b)(3) and (b)(4), and revising paragraph (a)(1) and (a)(2) to read as follows:

§ 13.203 Examination elements.

(a) * * * * *

(1) Element 1: Basic radio law and operating practice with which every maritime radio operator should be familiar. Questions concerning provisions of laws, treaties, regulations, and operating procedures and practices generally followed or required in communicating by means of radiotelephone stations.

(2) Element 3: General radiotelephone. Questions concerning electronic fundamentals and techniques required to adjust, repair, and maintain radio transmitters and receivers at stations licensed by the FCC in the aviation and maritime radio services.

* * * * *

17. Section 13.209 is amended by removing paragraph (e), redesignating paragraphs (f) through (j) as (e) through (i), and revising paragraphs (d), (d)(1), (d)(2), and (h) to read as follows:

§ 13.209 Examination procedures.

* * * * *

(d) Passing a telegraphy examination. Passing a telegraphy receiving examination is adequate proof of an examinee's ability to both send and receive telegraphy. The COLEM, however, may also include a sending segment in a telegraphy examination.

(1) To pass a receiving telegraphy examination, an examinee is required to receive correctly the message by ear, for a period of 1 minute without error at the rate of speed specified in § 13.203(b).

(2) To pass a sending telegraphy examination, an examinee is required to send correctly for a period of one minute at the rate of speed specified in § 13.203(b).

* * * * *

(h) No applicant who is eligible to apply for any commercial radio operator license shall, by reason of any physical disability, be denied the privilege of applying and being permitted to attempt to prove his or her qualifications (by examination if examination is required) for such commercial radio operator license in accordance with procedures established by the COLEM.

* * * * *

18. Section 13.211 is amended by revising paragraph (e) to read as follows:

§ 13.211 Commercial radio operator license examination.

* * * * *

(e) Within 3 business days of completion of the examination element(s), the COLEM must provide the results of the examination to the examinee and the COLEM must issue a PPC to an examinee who scores a passing grade on an examination element.

* * * * *

19. Section 13.213 is amended by adding paragraph (g) to read as follows:

§ 13.213 COLEM qualifications.

* * * * *

(g) Submit applications that it files on behalf of applicants electronically via the Commission's Universal Licensing System.

20. Section 13.215 is amended to read as follows:

§ 13.215 Question pools.

All COLEMs must cooperate in maintaining one question pool for each written examination element. Each question pool must contain at least 5 times the number of questions required for a single examination. Each question pool must be published and made available to the public prior to its use for making a question set.

21. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

22. Section 80.59 is amended by revising the note and table in paragraph (a)(1), and paragraph (b) to read as follows:

§ 80.59 Compulsory ship inspections.

(a) * * * * *

(1) * * * * *

Note: Nothing in this section prohibits Commission inspectors from inspecting ships. The mandatory inspection of U.S. vessels must be conducted by an FCC-licenses technician holding an FCC General Radiotelephone Operator License, GMDSS Radio Maintainer's License, Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, or First Class Radiotelegraph Operator's Certificate in accordance with the following table:

Category of vessel	Minimum class of FCC license required by private sector technician to conduct inspection – only one license required			
	General radiotele -phone operator license	GMDSS radio maintainer's license	Radiotelegraph operator's certificate (formerly second class radiotelegraph operator's certificate)	First class radiotelegraph operator's certificate
Radiotelephone equipped vessels subject to 47 CFR part 80, subpart R or S	√	√	√	√
GMDSS equipped vessels subject to 47 CFR part 80, subpart W	.....	√	.....	.....

* * * * *

(b) Inspection and certification of a ship subject to the Great Lakes Agreement. The FCC will not inspect Great Lakes Agreement vessels. An inspection and certification of a ship subject to the Great Lakes Agreement must be made by a technician holding one of the following: an FCC General Radiotelephone Operator License, a GMDSS Radio Maintainer's License, a Radiotelegraph Operator's Certificate, a Second Class Radiotelegraph Operator's Certificate, or a First Class Radiotelegraph

Operator's Certificate. The certification required by § 80.953 must be entered into the ship's log. The technician conducting the inspection and providing the certification must not be the vessel's owner, operator, master, or an employee of any of them. Additionally, the vessel owner, operator, or ship's master must certify that the inspection was satisfactory. There are no FCC prior notice requirements for any inspection pursuant to § 80.59(b).

* * * * *

23. Section 80.151 is amended by revising paragraphs (b)(9)-(11) and (c)(1)-(3) to read as follows:

§ 80.151 Classification of operator licenses and endorsements.

* * * * *

(b) * * * * *

* * * * *

(9) T-3. Third Class Radiotelegraph Operator's Certificate (radiotelegraph operator's special certificate). Beginning **[insert effective date]**, no applications for new Third Class Radiotelegraph Operator's Certificates will be accepted for filing.

(10) T. Radiotelegraph Operator's Certificate (formerly T-2, Second Class Radiotelegraph Operator's Certificate).

(11) T-1. First Class Radiotelegraph Operator's Certificate. Beginning **[insert effective date]**, no applications for new First Class Radiotelegraph Operator's Certificates will be accepted for filing.

(c) * * * * *

(1) Ship Radar endorsement (Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, General Radiotelephone Operator License).

(2) Six Months Service endorsement (Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, and Second Class Radiotelegraph Operator's Certificate).

(3) Restrictive endorsements; relating to physical disabilities, English language or literacy waivers, or other matters (all licenses).

24. Section 80.157 is amended to read as follows:

§ 80.157 Radio officer defined.

A *radio officer* means a person holding a Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, or Second Class Radiotelegraph Operator's Certificate issued by the Commission, who is employed to operate a ship radio station in compliance with Part II of Title II of the Communications Act. Such a person is also required to be licensed as a *radio officer* by the U.S. Coast Guard when employed to operate a ship radiotelegraph station.

25. Section 80.159 is amended by revising paragraphs (a) and (b) as follows:

§ 80.159 Operator requirements of Title III of the Communications Act and the Safety Convention.

(a) Each telegraphy passenger ship equipped with a radiotelegraph station in accordance with Part II of Title III of the Communications Act must carry two radio officers holding a Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, or Second Class Radiotelegraph Operator's Certificate.

(b) Each cargo ship equipped with a radiotelegraph station in accordance with Part II of Title II of the Communications Act and which has a radiotelegraph auto alarm must carry a radio officer holding a Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, or Second Class Radiotelegraph Operator's Certificate who has had at least six months service as a radio officer on board U.S. ships. If the radiotelegraph station does not have an auto alarm, a second radio officer who holds a Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, or Second Class Radiotelegraph Operator's Certificate must be carried.

* * * * *

26. Section 80.169 is amended by revising paragraphs (a) and (b) to read as follows:

§ 80.169 Operators required to adjust transmitters or radar.

(a) All adjustments of radio transmitters in any radiotelephone station or coincident with the installation, servicing, or maintenance of such equipment which may affect the proper operation of the station, must be performed by or under the immediate supervision and responsibility of a person holding a Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, or General Radiotelephone Operator License.

(b) Only persons holding a Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, or Second Class Radiotelegraph Operator's Certificate must perform such functions at radiotelegraph stations transmitting Morse code.

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27. Section 80.203 is amended by revising paragraph (b)(3) to read as follows:

§ 80.203 Authorization of transmitters for licensing.

* * * * *

(b) * * * * *

(3) Except as provided in paragraph (b)(4) of this section, programming of authorized channels must be performed only by a person holding a Radiotelegraph Operator's Certificate, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, or General Radiotelephone Operator License using any of the following procedures:

* * * * *

28. Section 80.409 is amended by revising paragraph (f)(1)(i)(E) to read as follows:

§ 80.409 Station logs.

* * * * *

(f) * * * * *

(1) * * * * *

(i) * * * * *

(E) The inspector's signed and dated certification that the vessel meets the requirements of the Communications Act and, if applicable, the Safety Convention and the Bridge-to-Bridge Act contained in subparts R, S, U, or W of this part and has successfully passed the inspection.

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29. Section 80.953 is amended by revising paragraph (b) to read as follows:

§ 80.953 Inspection and certification.

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(b) An inspection and certification of a ship subject to the Great Lakes Agreement must be made by a technician holding one of the following: a General Radiotelephone Operator License, a GMDSS Radio Maintainer's License, a Radiotelegraph Operator's Certificate, a Second Class Radiotelegraph Operator's Certificate, or a First Class Radiotelegraph Operator's Certificate. Additionally, the technician must not be the vessel's owner, operator, master, or an employee of any of them. The results of the inspection must be recorded in the ship's radiotelephone log and include:

* * * * *

30. Section 80.1005 is amended to read as follows:

§ 80.1005 Inspection of station.

The bridge-to-bridge radiotelephone station will be inspected on vessels subject to regular inspections pursuant to the requirements of Parts II and III of Title II of the Communications Act, the Safety Convention or the Great Lakes Agreement at the time of the regular inspection. If after such inspection, the Commission determines that the Bridge-to-Bridge Act, the rules of the Commission and the station license are met, an endorsement will be made on the appropriate document. The validity of the endorsement will run concurrently with the period of the regular inspection. Each vessel must carry a certificate with a valid endorsement while subject to the Bridge-to-Bridge Act. All other bridge-to-bridge stations will be inspected from time to time. An inspection of the bridge-to-bridge station on a Great Lakes Agreement vessel must normally be made at the same time as the Great Lakes Agreement inspection is conducted by a technician holding one of the following: a General Radiotelephone Operator License, a GMDSS Radio Maintainer's License, a Radiotelegraph Operator's Certificate, a Second Class Radiotelegraph Operator's Certificate, or a First Class Radiotelegraph Operator's Certificate. Additionally, the technician must not be the owner, operator, master, or an employee of any of

them. Ships subject to the Bridge-to-Bridge Act may, in lieu of an endorsed certificate, certify compliance in the station log required by section 80.409(f).

31. The authority citation for Part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

32. Section 87.87 is amended by revising paragraphs (b)(1), (b)(2), and (b)(4) to read as follows:

§ 87.87 Classification of operator licenses and endorsements.

* * * * *

(b) * * * * *

(1) T-1 First Class Radiotelegraph Operator's Certificate. Starting thirty days after the date of publication in the Federal Register of a Report and Order in WT Docket No. 10-177, adopting this rule, no applications for new First Class Radiotelegraph Operator's Certificates will be accepted for filing.

(2) T Radiotelegraph Operator's Certificate (formerly T-2 Second Class Radiotelegraph Operator's Certificate).

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(4) T-3 Third Class Radiotelegraph Operator's Certificate (radiotelegraph operator's special certificate). Starting thirty days after the date of publication in the Federal Register of a Report and Order in WT Docket No. 10-177, adopting this rule, no applications for new Third Class Radiotelegraph Operator's Certificates will be accepted for filing.

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