

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

In the Matter of
RM-11699 Encryption of emergency communications



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LA 70354 HOLDS AMATEUR CALLSIGN N5PZJ. I have served in emergency
situations as a volunteer communicator in the Amateur Service in
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II

The proposal before the Commission in this inquiry is to determine the suitability of allowing encryption or other wise encoded messages to obscure the meaning under certain conditions. Part 97.113 was written to prevent daily unbridled use of encryption except under special conditions to control space telecommand stations or remote control craft. I propose to show why the Commission should support this proposal, allowing for encryption in the additional situations when required, providing for emergency communications in conformity with security and protection of sensitive information protected.

The case for securing sensitive information during an emergency can not be overstated with implementation of rules and law such as HIPPA², Federal Privacy Law of 1974³ and various State⁴ and Local privacy laws and regulations which covers disclosure not to mention the needs of local and regional governments with Law enforcement, search and Rescue, Medical facilities, Critical Infrastructure and disaster relief. The need to restrict information is a fine balancing act with the

¹ See Martin D. Wade Filing at GN-12-91.

² Pub. L. 104-191.

³ The Privacy Act of 1974, 5 U.S.C. § 552a

⁴ Louisiana Law RS 51:1303 et seq Privacy Law

public's right to know.

III

The major driving force behind opposition to this proposal are Amateur Radio Operators who fear 24/7 encryption on the bands and not being able to tell if traffic is "Proper" since the individual operators seem to think "self-policing" will be defeated if they can not intercept the actual traffic. First, all traffic transmitted during an emergency is legal. Second, by introducing strict controls to the use of any type of encryption, the fears of "illegal" use are stymied.

IV

The strict controls that will be needed to prevent the abuse of the privilege and several common sense ideas will prevent problems from arising, to-wit:

1. Encryption should only be permitted between amateur stations under the jurisdiction of the Commission, that is, only between US Licensed stations.
2. Encryption shall only be initiated when authorized by either:
 - A. Medical Personnel acting under HIPPA⁵ or other privacy concerns.
 - B. Federal, State or Local Law Enforcement Personnel in the performance of their assigned duty.
 - C. Emergency Management Officials acting under (R.A.C.E.S)⁶ Radio Amateur Civil Emergency Service activated by the Responsible Civil Emergency Officer during a Local, State or Federal declared emergency.
 - D. A drill may be initialized by any of the above mentioned groups for a period not to exceed (1) One hour per week for testing purposes with Two drills not to exceed (72) Seventy-two Hours annually.
3. Each Station shall identify their operations in the clear as per regular Station identification rules every 10 minutes and at the end of their transmission.
4. A log shall be kept by each station handling encrypted messages detailing the

⁵ Id. 2

⁶ CFR47 PART 97.407

time, date and station called or worked with Control Operator's name and who authorized the transmission and said log shall be furnished to the Commission upon request with the said logs being retained for no more than 365 days (one standard year) by the control operator(s).

IV

The reason for the strict controls are to allay the fears and concerns of the Amateur Radio Community which has a long and proud history of self policing of its frequencies to prevent the abuse of the Amateur Service by those parties who would pervert the service to their selfish use to avoid commercial tolls and tariffs. The justification for the proposed rules to be inserted are to prevent the exploitation of the Amateur Radio Service. The justification for the positions mentioned in Article IV are as follows:

1. By limiting encryption to the US as an internal policy, this will help preserve the international flavor of Amateur Radio as Goodwill Ambassadors by preventing cross border use of scrambling in international service. Part 97 has direct instructions that international contacts should be limited to a nature of which *shall be limited to communications incidental to the purposes of the amateur service and to remarks of a personal character.*⁷ By introducing this policy to keep the use confined to the USA, international concerns will be nil.
2. By limiting scrambling or encryption to a set certain of circumstances and condition, the potential for abuse is curtailed if control operators must be authorized by a certain set of persons or conditions in order to utilize this exemption. This is to prevent self activation and self dispatch in emergency response without being asked or assigned by a responsible party.
3. The keeping of a log by the control operator or operators will prevent operations without accountability, however, safety and efficiency must take precedence over fulfilling a regulatory requirement when public safety is at stake.

⁷ Part 97.117

The following changes are suggested to CFR 47 Part 97:

97.113 Prohibited transmissions.

(4) Music using a phone emission except as specifically provided elsewhere in this section; communications intended to facilitate a criminal act; messages encoded for the purpose of obscuring their meaning, except as otherwise provided herein; obscene or indecent words or language; or false or deceptive messages, signals or identification.

Encryption is, however, permissible under the following conditions:

a) signals exchanged between an amateur station and a space station in the amateur satellite service for the purpose of controlling the operation of the space station;

and

(b) signals exchanged between an amateur station and an unattended amateur station for the purpose of controlling the operation of the unattended amateur station;

and

(c) intercommunications when participating in emergency services operations or related training exercises which may involve information covered by sensitive data by Federal, State or Local authorities managing or providing assistance or training efforts during an emergency under the following situations:

- 1. Encryption should only be permitted between amateur stations under the jurisdiction of the Commission as defined, the amateur service is regulated by the FCC within the territorial limits of the 50 United States, District of Columbia, Caribbean Insular areas [Commonwealth of Puerto Rico, United States Virgin Islands (50 islets and cays) and Navassa Island], and**

Johnston Island (Islets East, Johnston, North and Sand) and Midway Island (Islets Eastern and Sand) in the Pacific Insular areas.

- 2. Encryption shall only be permitted when authorized by either:
 - A. Licensed Medical Personnel acting under HIPPA or other privacy concerns.**
 - B. Federal, State or Local Law Enforcement Personnel in the performance of their assigned duty.**
 - C. Emergency Management Officials acting under (R.A.C.E.S) Radio Amateur Civil Emergency Service activated by the Responsible Civil Emergency Officer during a Local, State/Territorial or Federal Declared emergency.**
 - D. A drill may be initialized by any of the above mentioned groups for a period not to exceed (1) One hour per week for testing purposes, Except tests and drills may be conducted for a period not to exceed (72) Seventy-hours no more than twice in any calendar year.****
- 3. Each amateur station operating in a secure or encrypted manner, must transmit its assigned call sign without any type of encryption on its Transmitting channel at the end of each communication, and at least every 10 minutes during a communication, for the purpose of clearly making the source of the transmissions from the station known to those receiving the transmissions. No station may transmit unidentified communications or signals, or transmit as the station call sign, any call sign not authorized to the station.**
- 4. Each Station utilizing any type of encryption or scrambling shall keep a log detailing the Date, Time, Frequency, station(s) in contact, authorizing official's name and agency along with type of encryption/scrambling used in the transmission. This log shall be retained by the Control Operator for 365 days as part of his station records.**

§ 97.119 Station identification.

- (h) Each amateur station operating in a secure or encrypted manner, must transmit its assigned call sign without any type of encryption on its Transmitting channel at the end of each communication, and at least every 10 minutes during a communication, for the purpose of clearly making the source of the transmissions from the station known to those receiving the transmissions. No station may transmit unidentified communications or signals, or transmit as the station call sign, any call sign not authorized to the station.**

§ 97.407 Radio amateur civil emergency service.

- (d) All communications transmitted in RACES must be specifically authorized by the civil defense organization for the area served. Only civil defense communications of the following types may be transmitted:**
- (5) intercommunications in RACES when participating in emergency services operations or related training exercises which may involve information covered by sensitive data by Federal, State or Local authorities managing or providing assistance or training efforts during an emergency under the following situations:**
- 1. An amateur station registered with a civil defense organization may only communicate using any type of encryption upon authorization of the responsible civil defense official for the organization with which the amateur station is registered.**

- 2. Communications for RACES training drills and tests necessary to ensure the establishment and maintenance of orderly and efficient operation of the RACES as ordered by the responsible civil defense organization served utilizing encryption or other methods in such drills and tests may not exceed a total time of 1 hour per week. With the approval of the chief officer for emergency planning in the applicable State, Commonwealth, District or territory, however, such tests and drills may be conducted for a period not to exceed 72 hours no more than twice in any calendar year.**

It is in the public interest, necessity and convenience for the Commission to adopt favorable rules on the matter of encryption/scrambling to allow flexibility in Operations during an emergency when other communication avenues are closed and the Stand alone nature of the Amateur Radio Service is called upon to carry the burden of secure communications in a disaster.

Respectfully Submitted,

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