

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 97**

[WT Docket Nos. 12–283 and 09–209, RM–11629 and RM–11625; FCC 12–121]

Amateur Service Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to amend the amateur radio service rules to grant examination credit for expired and beyond-the-grace-period-for renewal amateur radio operator licenses; to shorten the grace period during which an expired amateur license may be renewed to 180 days; to revise the time a call sign is not available to the vanity call sign system correspondingly; and to reduce to two the number of volunteer examiners needed to administer an amateur license examination. This document also asks for comment on amending the rules to permit remote test administration, and proposes to amend the amateur radio service rules to allow amateur stations to transmit certain additional emission types.

DATES: Submit comments on or before December 24, 2012 and reply comments are due January 22, 2013.

ADDRESSES: You may submit comments, identified by WT Docket No. 12–283; FCC 12–121, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William T. Cross, Mobility Division, Wireless Telecommunications Bureau, (202) 418–0680, TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking and Order (NPRM)*, in WT Docket No. 12–283, FCC 12–121, adopted October 1, 2012, and

released October 2, 2012. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554, or by downloading the text from the Commission's Web site at http://transition.fcc.gov/Daily_Releases/Daily_Digest/2012/dd121003.html. The complete text also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, Suite CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to FCC504@fcc.gov or calling the Consumer and Government Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

1. The Commission initiated this proceeding to amend the part 97 Amateur Radio Service rules that apply to examination credit for amateur radio operator licenses, to shorten the grace period during which an expired amateur license may be renewed, to reduce the number of volunteer examiners needed to administer an amateur license examination, and to allow amateur stations to transmit additional emission types. The Commission found that certain provisions in the rules applicable to the examination credit for an expired license treat a former licensee differently than a licensee who passed the same examination(s) but continuously renewed his or her license and that the fact that an individual allowed his or her license to expire more than two years ago does not necessarily mean that the person no longer possess adequate knowledge of the subject. Specifically, the Commission proposed in this *NPRM* to amend the amateur service rules to revise § 97.505 to require that volunteer examiners (VEs) give examination credit to an applicant who can demonstrate that he or she formerly held a particular class of amateur radio operator license. It also proposed to reduce the grace period for renewal to six months (180 days), noting that it believes 180 days is a sufficient period of time for individuals who forget to renew or experience unforeseen difficulties when renewing their licenses.

2. The Commission also proposed to reduce the number of VEs required to administer an examination from three to two noting that reducing the number of required VEs can increase the availability of examination opportunities while not compromising the reasons the Commission decided that more than one VE is necessary. It

also noted that in the years since the VE system was established, methods that would allow a VE examiner to observe an examinee from afar have been developed, such as audio and video links, either hard-wired to a site or available through the use of wireless Internet or satellite technologies, and it requested comment on whether it should amend Section 97.509(c) to provide that, at the option of the administering VEs and the VEC coordinating the examination session, the VEs may be “present and observing” an examinee for purposes of the rule when they are using an audio and video system that can assure the proper conduct and necessary supervision of each examination.

3. The Commission also proposed to amend § 97.3(c)(5) to allow emission type FXE as a phone emission and to amend § 97.307(f)(8) to allow emission type FXD as a data emission. It noted that this proposed rule change would encourage licensees to more fully utilize time division multiple access (TDMA) technologies in experimentation and promote more efficient use of the radio spectrum currently allocated to the amateur service.

I. Procedural Matters**A. Ex Parte Rules—Permit-but-Disclose Proceeding**

4. 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.

B. Comment Dates

5. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before December 24, 2012, and reply comments are due January 22, 2013.

6. 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. Commenters filing through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. If multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy for each docket or rulemaking number referenced in the caption. 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

email. To get filing instructions for email comments, commenters should send an email 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 Web site for submitting comments.

7. 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, 445 12th Street SW., Room TW-A325, Washington, DC 20554.

8. Commenters may send filings by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 445 12th Street SW., Washington, DC 20554. Commenters must bind all hand deliveries together with rubber bands or fasteners and must dispose of any envelopes before entering the building. This facility is the only location where the Commission's Secretary will accept hand-delivered or messenger-delivered paper filings. 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 SW., Washington, DC 20554.

C. Paperwork Reduction Act

9. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

II. Initial Regulatory Flexibility Analysis

10. The Regulatory Flexibility Act requires an initial regulatory flexibility

analysis to be prepared for notice and comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

11. In this *NPRM*, we propose to amend the amateur service rules applicable to the license examination system and to matters concerning emission types that amateur stations may transmit. Because "small entities," as defined in the RFA, are not persons eligible for licensing in the amateur service, these proposed rules do not apply to "small entities." Rather, the rules apply exclusively to individuals who currently are amateur service licensees and individuals who may be interested in again becoming an amateur service licensee. Therefore, we certify that the proposals in this *Notice*, if adopted, will not have a significant economic impact on a substantial number of small entities.

III. Ordering Clauses

12. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rulemaking and Order*, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 97

Radio.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 97 as follows:

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 97.3 is amended by revising paragraph (c)(5) to read as follows:

§ 97.3 Definitions.

* * * * *

(c) * * *

(5) *Phone*. Speech and other sound emissions having designators with A, C, D, F, G, H, J or R as the first symbol; 1, 2, 3, or X as the second symbol; E as the third symbol. Also speech emissions having B as the first symbol; 7, 8 or 9 as the second symbol; E as the third symbol. MCW for the purpose of performing the station identification procedure, or for providing telegraphy practice interspersed with speech. Incidental tones for the purpose of selective calling or alerting or to control the level of a demodulated signal may also be considered phone.

* * * * *

3. Section 97.19 is amended by revising paragraphs (c)(1) through (3) to read as follows:

§ 97.19 Application for a vanity call sign.

* * * * *

(c) * * *

(1) A call sign shown on an expired license grant is not available to the vanity call sign system for 180 days following the expiration of the license.

(2) A call sign shown on a surrendered or canceled license grant (except for a license grant that is canceled pursuant to § 97.31) is not available to the vanity call sign system for 180 days following the date such action is taken. (The availability of a call sign shown on a license canceled pursuant to § 97.31 is governed by paragraph (c)(3) of this section.)

(i) This 180 day period does not apply to any license grant pursuant to paragraph (c)(3)(i), (ii), or (iii) of this section that is surrendered, canceled, revoked, voided, or set aside because the grantee acknowledged or the Commission determined that the grantee was not eligible for the exception. In such a case, the call sign is not available to the vanity call sign system for 30 days following the date such action is taken, or for the period for which the call sign would not have been available to the vanity call sign system pursuant to paragraphs (c)(2) or (3) of this section but for the intervening grant to the ineligible applicant, whichever is later.

(ii) An applicant to whose operator/primary station license grant, or club station license grant for which the applicant is the trustee, the call sign was previously assigned is exempt from the 180 day period set forth in paragraph (c)(2) of this section.

(3) A call sign shown on a license canceled pursuant to § 97.31 of this part

is not available to the vanity call sign system for 180 days following the person's death, or for 180 days following the expiration of the license grant, whichever is sooner. If, however, a license is canceled more than 150 days after the licensee's death, the call sign is not available to the vanity call sign system for 30 days following the date such action is taken. The following applicants are exempt from this 180 day period:

* * * * *

4. Section 97.21 is amended by revising paragraph (b) to read as follows:

§ 97.21 Application for a modified or renewed license grant.

* * * * *

(b) A person whose amateur station license grant has expired may apply to the FCC for renewal of the license grant for another term during a 180-day filing grace period. The application must be received at the address specified above prior to the end of the grace period. Unless and until the license grant is renewed, no privileges in this part are conferred.

* * * * *

5. Section 97.307 is amended by revising paragraphs (f)(8) and (10) to read as follows:

§ 97.307 Emission standards.

* * * * *

(f) * * *

(8) A RTTY or data emission having designators with A, B, C, D, E, F, G, H, J or R as the first symbol; 1, 2, 7, 9 or X as the second symbol; and D or W as the third symbol is also authorized.

* * * * *

(10) A station having a control operator holding a Novice Class operator license or a Technician Class operator license may only transmit a

CW emission using the international Morse code or phone emissions J3E and R3E.

* * * * *

6. Section 97.505 is revised to read as follows:

§ 97.505 Element credit.

The administering VEs must give credit as specified below to an examinee holding any of the following license grants or license documents:

(a) An unexpired or expired FCC-granted Amateur Extra Class operator license grant: Elements 2, 3, and 4.

(b) An unexpired or expired FCC-granted Advanced Class or General Class operator license grant: Elements 2 and 3.

(c) An unexpired or expired FCC-granted Technician Class or Technician Plus operator license document: Element 2.

(d) An expired FCC-issued Technician Class operator license document granted before March 21, 1987; Element 3.

(e) A CSCE: Each element the CSCE indicates the examinee passed within the previous 365 days.

7. Section 97.507 is amended by removing paragraph (d) and revising paragraphs (a) introductory text, (a)(2), and (c) to read as follows:

§ 97.507 Preparing an examination.

(a) Each written question set administered to an examinee must be prepared by a VE holding an Amateur Extra Class operator license. A written question set may also be prepared for the following elements by a VE holding an operator license of the class indicated:

* * * * *

(2) Element 2: Advanced, General, or Technician Plus Class operators

* * * * *

(c) Each written question set administered to an examinee for an amateur operator license must be prepared, or obtained from a supplier, by the administering VEs according to instructions from the coordinating VEC.

8. Section 97.509 is amended by removing and reserving paragraph (g), and revising paragraphs (a), (f) and (i) to read as follows:

§ 97.509 Administering VE requirements.

(a) Each examination for an amateur operator license must be administered by a team of at least 2 VEs at an examination session coordinated by a VEC. The number of examinees at the session may be limited.

* * * * *

(f) No examination that has been compromised shall be administered to any examinee. The same question set may not be re-administered to the same examinee.

(g) [Removed and Reserved]

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(i) When the examinee is credited for all examination elements required for the operator license sought, 2 VEs must certify that the examinee is qualified for the license grant and that the VEs have complied with these administering VE requirements. The certifying VEs are jointly and individually accountable for the proper administration of each examination element reported. The certifying VEs may delegate to other qualified VEs their authority, but not their accountability, to administer individual elements of an examination.

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