

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

In the Matter of)	
)	
Amendment of Parts 2 and 97 of the)	RM-9106
Commission's Rules Governing the)	
Amateur Service to Authorize)	
Operation on Additional Frequency)	
Bands in American Samoa)	
)	
Amendment of Part 97 of the Commission's)	RM-9114
Rules Governing the Amateur Service)	
to Permit Certain Amateur Radio Operators)	
to Accept Compensation while Transmitting)	
Disaster Relief Messages)	
)	
Amendment of Part 97 of the Commission's)	RM-9115
Rules Regarding the Radio Amateur Civil)	
Emergency Service)	
)	
Compliance With Applicable Voluntary)	RM-9259
Band Plans in the Amateur Radio Service)	
)	
Request to Change Section 97.305 of)	RM-9673
the Commission's Rules to Limit Certain)	
Types of Transmissions on Prescribed)	
Portions of the Amateur Service VHF)	
and UHF Bands)	

ORDER

Adopted: November 29, 1999

Released: November 29, 1999

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. Five petitions requesting changes in the amateur service rules have been received from an individual and two organizations of amateur radio operators. Four of the petitions request that the Commission impose restrictions on the operational capabilities of certain amateur service stations. The fifth petition requests an additional frequency allocation in one of the High Frequency (HF) amateur service bands for amateur service stations in American Samoa. In the interest of administrative efficiency, we have consolidated these petitions in this *Order* because in all cases we find that they do not warrant the issuance of a *Notice of Proposed Rule Making* and the commencement of a separate proceeding. Because the petitioners in these cases have not presented sufficient evidence to justify altering the current operator privileges or request changes that are inconsistent with the international *Radio Regulations*, we are dismissing these petitions.

II. DISCUSSION

A. RM-9106

2. *Background.* On March 12, 1997, the American Radio Relay League, Inc. (ARRL) filed a petition for rule making, RM-9106,¹ requesting that the Amateur Radio Service rules and the Table of Frequency Allocations² be amended to permit stations in the Territory of American Samoa to transmit on the frequency band 7.1-7.3 MHz as a domestic exception to the International Table of Frequency Allocations. In support of the *Samoa Petition*, it states that the Territory of American Samoa is an unincorporated, unorganized Territory of the United States located, for purposes of the international *Radio Regulations*, in ITU Region 3.³ The ARRL also states that although the international *Radio Regulations* allocate only the frequency band 7.0-7.1 MHz to the amateur service in ITU Region 3,⁴ other countries in that region, including Australia, New Zealand, and Western Samoa, have authorized amateur radio stations they regulate to transmit on the frequency segment 7.1-7.3 MHz on a non-interference basis with broadcasting services.⁵ It states that amateur radio operators in those countries have established emergency and other communications networks on the frequency band 7.1-7.3 MHz

¹See Petition for Rule Making, RM-9106, filed by the American Radio Relay League, Inc., on May 23, 1997 (*Samoa Petition*).

²The United States Table of Frequency Allocations is in Section 2.106 of the Commission's Rules, 47 C.F.R. § 2.106.

³See 47 C.F.R. § 2.104(b).

⁴In ITU Region 3, the frequency segment 7.1-7.3 MHz is allocated to Broadcasting on a primary basis. See 47 C.F.R. § 2.106.

⁵*Samoa Petition* at 2, 4. American Samoa is approximately 2,900 miles from Australia and 2,100 miles from New Zealand. *Id.* at 1.

for communications with amateur stations in Hawaii and the United States mainland.⁶ The ARRL contends that lack of access to this frequency band has impeded and continues to impede the operations of amateur service stations in American Samoa.⁷ The Commission sought comment on this petition on June 18, 1997.⁸ We received no comments on this petition.

3. *Decision.* Based on our review of the record, we are not persuaded that the requested exception to the Table of Frequency Allocations is warranted. As an initial matter, we note that communications between amateur service stations in American Samoa and stations in adjoining ITU regions is not possible much of the day due to the propagation characteristics of the 7.0 MHz amateur service band. In this regard, we note that the ARRL has stated elsewhere that during the day, a typical amateur station transmitting on the 7 MHz band has a communication radius distance of approximately 500 miles.⁹ The distance between American Samoa and Australia, New Zealand, Hawaii and the mainland United States, however, far exceeds this distance. Additionally, we note that because the frequency band 7.1-7.3 MHz is shared with the broadcast service in ITU Regions 1 and 2, communications between amateur service stations at night is hampered by interference from broadcast stations, especially on the 7.1-7.3 MHz frequency band.¹⁰ We conclude, therefore, that permitting stations in American Samoa to use the 7.1-7.3 MHz band would not improve or enhance the operation of amateur service stations in American Samoa.

4. We also do not believe that the requested exception is warranted because lack of access to the 7.1-7.3 MHz band does not prevent amateur service stations in American Samoa from exchanging voice communication with amateur service stations in Australia, New Zealand, and Western Samoa, and stations in other ITU regions. In this regard, we note that other stations in ITU Region 3 are authorized to transmit on the same frequency band authorized for stations in American Samoa, thereby making the exchange of messages possible.¹¹ Additionally, we note that our rules authorize amateur stations in Hawaii to transmit a phone emission type on the frequency band 7.075-7.1 MHz,¹² thereby allowing a common frequency band for voice communications between stations in American Samoa and Hawaii. With regard to communications between stations in American Samoa and those in other ITU regions, including the continental United States, we note that stations in American Samoa routinely exchange messages with amateur radio stations in the mainland United States and other ITU regions using dual channel or "split-frequency" operation, a common operating technique routinely used on the 7 MHz amateur service band to compensate for different frequency allocations for the amateur service in different parts of the world.¹³ For these reasons, we conclude that the exception to the International Table of Frequency Allocations requested by the ARRL is unnecessary, and as a result we dismiss the ARRL's petition for rule making.

⁶Hawaii and the United States mainland are located in ITU Region 2. See 47 C.F.R. § 2.104(b). In this region, the amateur service is allocated 7.0-7.3 MHz on a primary basis. See 47 C.F.R. § 2.106.

⁷Samoa Petition at 2-3.

⁸ *Public Notice*, Petitions for Rulemaking Filed, June 18, 1997.

⁹See The ARRL Handbook for Radio Amateurs, 1993, at 22-10.

¹⁰See ARRL's *The FCC Rule Book*, 10th edition at 5-6.

¹¹Samoa Petition at 2.

¹²See 47 C.F.R. § 97.305(c).

¹³See *The ARRL Operating Manual*, Fourth Edition at 5-18 through 5-20, 5-21 (7 MHz phone will quickly bring home the need to have the ability to work split frequency).

B. RM-9114

5. *Background.* On March 10, 1997, Mr. James Cardillo-Lee filed a petition for rule making, RM-9114, requesting that Section 97.113 of the Commission's Rules¹⁴ be amended to permit amateur radio operators who also are emergency personnel engaged in disaster relief to use the amateur service bands when such operators are in a paid duty status.¹⁵ Mr. Cardillo-Lee states that the amateur service rules prohibit an amateur station from transmitting communications where there is a pecuniary interest including transmissions made on behalf of an employer.¹⁶ He also states that the rules contains an exception for school teachers, who are allowed to conduct educational activities on the amateur bands in connection with their employment.¹⁷

6. In support of this request, Mr. Cardillo-Lee states that as part of disaster preparedness, law enforcement and other safety personnel are being encouraged to become amateur radio operators and that, from time to time, the need to use amateur service bands in the course of a disaster operation may arise.¹⁸ He states that such use of the amateur bands by paid emergency personnel who are in a duty status at the time could be viewed as making prohibited transmissions on behalf of an employer if there is no immediate threat to life or property.¹⁹ Mr. Cardillo-Lee requests that the Rules be amended to clarify that amateur radio operators who are emergency personal engaged in disaster relief are not prohibited from using the amateur service bands while in a paid duty status.²⁰ The Commission sought comment on this petition on June 19, 1997.²¹ We received no comments on this petition.

7. *Decision.* The international *Radio Regulations* define the amateur service as a radiocommunication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, by duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.²² In 1993, the Commission amended the amateur service prohibited transmission rule, Section 97.113, to permit greater flexibility for amateur stations while transmitting communications.²³ Specifically, it amended the rule to allow amateur operators more flexibility to provide communications for public service projects as well as to enhance the value of the amateur service in satisfying personal communications needs and expand the benefits derived from the amateur service by the general public.²⁴ It noted that the vast majority of comments supported its proposal to relax the prohibition against using the amateur service as an alternative to other radio services such as

¹⁴47 C.F.R. § 97.113.

¹⁵See Petition for Rulemaking, RM-9114, filed by Mr. James Cardillo-Lee on March 10, 1997, at 1 (*Cardillo-Lee Petition*).

¹⁶*Id.*; see 47 C.F.R. § 97.113(a)

¹⁷*Cardillo-Lee Petition* at 1; see 47 C.F.R. § 97.113(c).

¹⁸*Cardillo-Lee Petition* at 1.

¹⁹*Id.*

²⁰*Id.*

²¹ *Public Notice*, Petitions for Rulemaking Filed, Report No. 2206, June 19, 1997.

²²See No. 53 of the ITU Radio Regulations (Geneva, 1990). The essence of this definition is carried over to the Communications Act of 1934, as amended, which regulates the amateur service in the United States, and to various Commission rule sections. See 47 U.S.C. § 153(2); 47 C.F.R. §§ 97.3(a)(4), 97.113.

²³See Amendment of Part 97 of the Commission's Rules to Relax Restrictions on the Scope of Permissible Communications in the Amateur Service, PR Docket No. 92-136, *Report and Order*, 8 FCC Rcd 5072 (1993) (*Permissible Communications*).

²⁴*Id.* at 5073 ¶ 7.

the maritime services, land mobile radio services or the cellular telephone service.²⁵ The Commission stated that this action would allow licensees to use amateur service frequencies, for example, to facilitate events such as races and parades, to support educational activities, to provide personal communications such as making appointments and ordering food, to collect data for the National Weather Service, and to provide assistance voluntarily even where there are other authorized radio services available.²⁶

8. In that proceeding, the Commission also explicitly declined to devote staff resources to development and maintenance of any list of permitted or prohibited communications under Section 97.113 because such a list would necessitate that it intrude upon the day-to-day functioning of the amateur service to a far greater degree than it desired.²⁷ Further, it stated that, in view of amateur radio operators' desire to engage in widely diverse types of communications, "thousands of examples" would have to be included on such a list.²⁸ Instead of providing a list of anecdotal examples of permitted and prohibited communications, the Commission adopted five general standards that an amateur radio station control operator should use when deciding whether his or her station should transmit a certain message.²⁹ It also decided to rely on the amateur service's traditions of self-regulation and cooperation between licensees, the cornerstones of the amateur service, to determine whether specific communications should be transmitted on amateur service frequencies.³⁰

9. With regard to the specific request that we amend Section 97.113 of the Rules to clarify that amateur radio operators who are emergency personnel engaged in disaster relief are permitted to use the amateur service bands while in a paid duty status, we believe that such clarification is not necessary because these two-way communications are permitted within the existing rules.³¹ In this regard, we note that amateur radio operators who also are emergency personnel engaged in disaster relief do not appear to be receiving compensation for transmitting communications. Rather, we believe that these individuals are receiving compensation for services related to their disaster relief duties and in their capacities as emergency personnel, and the fact they also are amateur radio operators is incidental to these functions. Further, we note that under the Rules, if the control operator of an amateur service station, who also is an emergency services provider engaged in disaster relief, questions whether a particular message in support of disaster relief should be transmitted on amateur service frequencies, he or she is under no obligation to transmit the message. If the control operator decides that a particular message is not appropriate for transmission on amateur service frequencies, we note that the message can be transmitted on frequencies allocated to other radio services, because disaster relief organizations are eligible for and have been assigned numerous radio channels in other radio services to meet their communication needs.³²

10. We also note that the prohibition against transmitting communications, on a regular basis, which could reasonably be furnished through other radio services, does not appear applicable to disaster

²⁵*Id.* at 5072 ¶ 3.

²⁶*Id.* at 5073 ¶ 7.

²⁷*Id.* at 5073 ¶ 6.

²⁸*Id.*

²⁹*Id.* This rule allows amateur radio stations to transmit any amateur-station-to-amateur-station communication unless it is specifically prohibited; transmitted for compensation; done for the pecuniary benefit of the station control operator; done for the pecuniary benefit of the station control operator's employer; or communications, on a regular basis, which could reasonably be furnished through other radio services. See 47 C.F.R. § 97.113.

³⁰*Permissible Communications*, 8 FCC Rcd at 5073 ¶ 6.

³¹See 47 C.F.R. § 97.111(a)(1).

³²See, e.g., 47 C.F.R. §§ 90.15, 90.20; see also *Popular Communications*, November, 1999 at 33.

relief-related communication because disasters, by definition, are atypical occurrences. We also believe that a rulemaking proceeding based on this petition is not necessary and that such a proceeding would be inconsistent with the Commission's explicit statement that it will not devote staff resources to development and maintenance of any list of permitted or prohibited communications.³³ After review of this petition, we conclude that the amendment it requests is unnecessary and, therefore, does not warrant action by the Commission. For this reason, we will dismiss Mr. Cardillo-Lee's rulemaking petition.

³³*Permissible Communications*, 8 FCC Rcd at 5073 ¶ 6.

C. RM-9115

11. *Background.* On March 12, 1997, the ARRL filed a petition for rule making, RM-9115, requesting that the amateur service rules be amended with respect to the Radio Amateur Civil Emergency Service (RACES).³⁴ Specifically, the ARRL requests that Section 97.407³⁵ be amended to permit intercommunication between RACES participants and other amateur stations actively providing communications related to an emergency or disaster situation, including drills and tests.³⁶ In addition, the ARRL requests that the present limitation on training drills and tests of one hour per week³⁷ be modified so that such drills and tests could be conducted for a maximum of five hours per week.³⁸

12. In support of this proposal, the ARRL states that there are two principal organizations of amateur stations at the national level by which amateur radio stations provide emergency communications on an organized basis. One is RACES, and the other is the Amateur Radio Emergency Service (ARES).³⁹ In addition, in some locations, amateur radio operators provide emergency communications independently of RACES or ARES.⁴⁰ The ARRL requests amendment of the amateur service rules to permit intercommunication between RACES stations and ARES stations, as well as between RACES stations and other amateur radio stations that are actively engaged in support communications in an emergency or disaster situation, including drills and tests.⁴¹ It states that the rules generally limit intercommunication of RACES stations to other RACES station or to an amateur radio station registered with a civil defense organization.⁴² The Commission sought comment on this petition on June 19, 1997.⁴³

13. Comments opposing this petition were received from Mr. Marshall King and Mr. Billy Geer. Mr. King states that RACES is ineffective and it presents serious obstacles to the more structured and highly successful ARES groups because it is not clear who is in charge of communications when multiple groups are providing emergency communications.⁴⁴ He also states that RACES is redundant and unnecessary and should be eliminated.⁴⁵ Mr. Geer states that a maximum of five hours per week for training drills and tests is excessive.⁴⁶

14. *Decision.* One of the fundamental purposes of the amateur service is the recognition and

³⁴See Providing a Radio Amateur Civil Emergency Service, *Memorandum Opinion and Order*, Docket No. 10102, ⁴²FCC 224 (1952). Frequency segments for this service were established in cooperation with the Civil Defense Administration. See Frequencies Available For Amateur Participation In Civil Defense Communication, *Public Notice*, FCC 51-35, (January 17, 1951). The RACES, as it was envisioned when it was authorized in 1952, was to be a temporary service designed to afford radio communication for civil defense purposes.

³⁵47 C.F.R. § 97.407.

³⁶See Petition for Rule Making, RM-9115, filed by ARRL on March 12, 1997 (*ARRL Petition*).

³⁷See Revision of RACES Rules, *Report and Order*, Docket No. 19723, 36 Rad. Reg. 2d (P&F) 318 (1976) (*RACES R&O*). This limitation was adopted to protect against misuse of amateur service frequencies by non-amateur civil defense organizations. *ARRL Petition* at 12.

³⁸*ARRL Petition* at 13.

³⁹*Id.* at 2.

⁴⁰*Id.* at 4.

⁴¹*Id.*

⁴²See 47 C.F.R. § 97.407(c).

⁴³ *Public Notice*, Petitions for Rulemaking Filed, Report No. 2206, June 19, 1997.

⁴⁴Mr. Marshall King Comments at 1 (filed December 9, 1997).

⁴⁵*Id.* at 3.

⁴⁶Mr. Billy Geer Comments at 1 (filed July 25, 1997).

enhancement of the amateur service's value to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications.⁴⁷ The importance of allowing amateur stations to participate in providing essential communications when there is an emergency situation or a natural disaster cannot be overstated. Because such communications may be instrumental in saving human lives and protecting property, we believe that an amateur station should be able to communicate with other amateur stations in furtherance of those objectives. Upon review of the record in this matter, we find that the ARRL has failed to demonstrate that commencement of a separate rulemaking proceeding on this issue is warranted, particularly given that the ARRL submitted a similar request that was considered and denied in 1976 when the Commission updated the rules for RACES.⁴⁸ The ARRL has not indicated any significant change in circumstances that would warrant a different outcome at this juncture. For this reason, we will dismiss RM-9115.

15. We note that our decision not to pursue further the ARRL rulemaking requests will not adversely affect the ability of amateur service stations to provide emergency communications. Under the current Rules, a primary, club, or military recreation station has more ability and flexibility than a RACES station to provide emergency communications because a primary, club, or military recreation station can provide emergency communications with any other amateur service station at any time and on any frequency authorized the control operator of the station.⁴⁹ In this regard, we note that the ARRL also states that other amateur service emergency organizations can provide vital emergency communication links that are not available to RACES stations.⁵⁰ Additionally, we note that the Commission currently is considering the necessity of separate licenses for RACES stations in another proceeding.⁵¹ We conclude that no purpose would be served by initiating a proceeding proposing revisions to Section 97.407 of the Commission's Rules at this time.

⁴⁷See 47 C.F.R. § 97.1(a).

⁴⁸See *RACES R&O*, 36 Rad. Reg. 2d (P&F) at 318.

⁴⁹See 47 C.F.R. § 97.105(b).

⁵⁰*ARRL Petition* at 11. See also *RACES R&O*, 36 Rad. Reg. 2d (P&F) at 322-323, where the Commission observed that there is nothing to prevent amateur stations registered in RACES from taking part in other organized and unorganized amateur activities and communicating with non-RACES amateur service stations in those contexts.

⁵¹See 1998 Biennial Regulatory Review -- Amendment of Part 97 of the Commission's Amateur Service Rules, *Notice of Proposed Rule Making*, WT Docket No. 98-143, and Errata, Aug. 31, 1998, 13 FCC Rcd 15798 (1998).

D. RM-9259

16. *Background.* On April 3, 1998, the ARRL filed a Request for Declaratory Ruling, RM-9259, requesting that the Commission declare that the phrase "good amateur practice" as used in the amateur service rules⁵² requires that control operators of amateur radio stations comply with voluntary band plans adopted by other amateur radio operators across the country and around the world.⁵³ The ARRL also request we declare that any amateur radio station control operator who selects a transmitting frequency not in harmony with those voluntary band plans is not operating in accordance with good amateur practice.⁵⁴ It states that non-compliance with accepted band plans which causes interference to one or more amateur service stations that are operating in accordance with these accepted band plans should not be considered good amateur practice under any circumstances.⁵⁵ It also states that as more users attempt to operate in increasingly crowded spectrum, it becomes more important for us to define minimal standards of "good amateur practice" in order to prevent interference by "rogue operators."⁵⁶ It notes, however, that rigid enforcement of band plans is neither warranted or feasible,⁵⁷ and it does not seek to fix the current band plans as they are, or to incorporate voluntary band plans by reference into the Rules.⁵⁸ The Commission sought comment on this petition on April 21, 1998.⁵⁹ In response to our request for comment, we received over seventy comments and reply comments.

17. *Decision.* One of the basic principles of the amateur service is that all frequencies are shared and no frequency will be assigned for the exclusive use of any station.⁶⁰ Voluntary band planning within the amateur service community, by licensees and representatives of licensees who have a vested interest in ensuring fair and effective use of amateur service frequencies, is a method that the amateur service community has long used to meet the requirement of Section 97.101 that each licensee and control operator make the most effective use of the amateur service frequencies.⁶¹ It allows the amateur service community to accommodate the varied operating interests of licensees and the specific operating activities that a station or group of stations wishes to engage in without explicit regulation. Voluntary band planning also allows the amateur service community the flexibility to reallocate its spectrum among operating interests as new operating interests and technologies emerge or operating interests and technologies fall into disfavor. The Commission's role in amateur service band planning, especially on the HF and Medium Frequency amateur service bands, generally has been limited to establishing the emission types that can be transmitted in different frequency segments.⁶²

18. We believe that it is not necessary to define the term "good amateur practice" as used in the Rules as requiring that amateur stations comply with voluntary band plans or declare that any amateur station control operator who selects a transmitting frequency not in harmony with those voluntary band plans is not operating in accord with good amateur practice. We believe that such definition would have

⁵²See 47 C.F.R. § 97.101(a).

⁵³See Request for Declaratory Ruling, RM-9259, filed by the ARRL on April 3, 1998 at 1 (*ARRL Request*).

⁵⁴*Id.*

⁵⁵*Id.* at 6.

⁵⁶*Id.*

⁵⁷*Id.*

⁵⁸*Id.* at 10.

⁵⁹*Public Notice*, Petitions for Rulemaking Filed, Report No. 2269, April 21, 1998.

⁶⁰See 47 C.F.R. § 97.101(b).

⁶¹*Id.*

⁶²See 47 C.F.R. § 97.305(c).

the effect of transforming voluntary band plans into *de facto* required mandates. We do not believe that such a result would be consistent with the underlying intent of the Commission's policy regarding voluntary band planning in the amateur service.⁶³

19. In this connection, we note that numerous commenters object to the request,⁶⁴ and to any attempt to establish mandatory band plans.⁶⁵ We also note that the ARRL has stated that rigid enforcement of band plans is neither warranted or feasible.⁶⁶ We nonetheless reiterate the requirements set forth in Section 97.101(d) of the Commission's Rules, which provides that no amateur operator shall willfully or maliciously interfere with or cause interference to any radio communication or signal.⁶⁷ We will dismiss RM-9250 because the declaratory ruling requested therein is unnecessary.

⁶³See Deregulation of Part 97 of the Commission's Rules to Simplify the Licensing and Operation of Complex Systems of Stations and Modify Repeater Subbands in the Amateur Radio Service, *Report and Order*, Docket No. 21033, 66 FCC 2d 207, 211-212 ¶ 5 (1977).

⁶⁴See, e.g., Martin T. Vinson Comments at 1; Michael P. Blenderman Comments at 1-2; Wayne Overbeck Comments at 2; Archie N. Anderson Comments at 1; William Charles Houlne Objection at 5; No Code International Opposition at 3-10; William C. Wells Reply Comments at 1.

⁶⁵See, e.g., William L. D'Agostino Comments at 1; Harold L. Deitz Comments at 1; Ed Mitchell Objection at 2.

⁶⁶ARRL Request at 4-5.

⁶⁷See 47 C.F.R. § 97.101(d). See also No Code International Opposition at 7 (intentional interference has nothing to do with band plans).

E. RM-9673

20. *Background.* On May 3, 1999, the Central States VHF Society (CSVHFS) filed a petition for rulemaking, RM-9673, requesting amendment of the amateur radio service rules to prohibit amateur stations from transmitting certain emission types in certain segments of the Very High Frequency (VHF) 6-, 2-, and 1.25-meter amateur service bands and the 70-centimeter amateur service band.⁶⁸ It contends that long-distance weak signal work on the VHF amateur service bands above 50 MHz is vital to the continued contributions that amateur radio operators can make to the state of the radio communications art.⁶⁹ For this reason, it requests that the rules be amended to protect weak signal operation in which its members and others engage from wide band emissions that are increasingly popular on the VHF bands, such as Frequency Modulated (FM) voice and/or packet emissions.⁷⁰ It also states that voluntary band plans have not proven successful in limiting wideband emission types from the band segments used for weak signal communications.⁷¹ It requests, therefore, that we amend the rules to more strongly protect weak signal communications, which it states are primarily Morse code telegraphy and single sideband voice emission types, by prohibiting amateur service stations from transmitting wideband emission types in the frequency segments 50.1-50.3 MHz, 144.0-144.3 MHz, 222.0-222.15 MHz, and 431.8-432.5 MHz.⁷² The Commission sought comment on this petition on June 28, 1999.⁷³ In response to this petition, sixty-eight comments and reply comments were received.

21. *Decision.* As an initial matter, we note that weak signal and other amateur service operating activities have already been provided a frequency segment that is free from transmissions of certain types of amateur stations. Specifically, in the *Report and Order* in Docket 21033, the Commission excluded repeater stations from 144.0-144.5 MHz as an accommodation to weak signal and other amateur service operating activities.⁷⁴ We also note that the Commission's Rules set aside a 100 kHz segment of the 6- and 2-meter amateur service bands that can be used exclusively for telegraphy emission types⁷⁵ and that the voluntary band plans for these bands show that spectrum has been allocated by the amateur service community to accommodate these operating interests.⁷⁶ We believe, therefore, that spectrum that is free of FM emission types is available for licensees interested in weak signal communications.

22. We also note that the Commission recently addressed the issue of interference between amateur service stations engaging in different operating activities when it relaxed the restrictions on Spread Spectrum (SS) emission types that could be transmitted by amateur service stations.⁷⁷ In the

⁶⁸See Petition for Rule Making, RM-9673, filed by CSVHFS on May 3, 1999, at 2. CSVHFS states it represents amateur radio operators involved in weak signal communications on amateur service bands above 30 MHz. *Id.* at 1.

⁶⁹*Id.* at 1.

⁷⁰*Id.*

⁷¹*Id.*

⁷²*Id.* at 1-2.

⁷³ *Public Notice*, Petitions for Rulemaking Filed, June 28, 1999.

⁷⁴See Deregulation of Part 97 of the Commission's Rules to Simplify the Licensing and Operation of Complex Systems of Stations and Modify Repeater Subbands in the Amateur Radio Service, *Report and Order*, Docket No. 21033, FCC 77-651 (September 27, 1977) (42 Fed. Reg. 52418 (1977)), *amended, Order*, Docket No. 21033, Mimeo 83536 (October 26, 1977).

⁷⁵See 47 C.F.R. § 97.305(c). The frequency segments are 50.0-50.1 MHz and 144.0-144.1 MHz.

⁷⁶See ARRL's *The FCC Rule Book*, 10th edition, at 5-10 and 5-11.

⁷⁷See Amendment of the Amateur Service Rules to Provide For Greater Use of Spread Spectrum Communication Technologies, *Report and Order*, WT Docket No. 97-12, FCC 99-234 (rel. September 3, 1999) (64 Fed. Reg. 51471 (September 23, 1999)), recon. pending.

Report and Order in WT Docket No. 97-12, the Commission stated:

We will not revise the rules to prevent SS emission types from being transmitted in any frequency band on the basis that SS emissions may interfere with the operating activities of other Amateur Radio Service licensees. We agree with Mr. John C. Koster that the application of rules such as Sections 97.313 and 97.101(c) and (d) should help to minimize interference. We also note that interference between amateur radio stations is already addressed generally by Section 97.101(d), which prohibits operators from willfully or maliciously interfering with or causing interference to any radio communication or signal. Additionally, we believe that excluding specific emission types from additional frequency segments based on the specific operating interests of individual licensees or groups of licensees is inconsistent with the principle that each station licensee and each control operator must cooperate in selecting transmitting channels and in making the most effective use of the frequencies allocated to the Amateur Radio Service and that no frequency will be assigned for the exclusive use of any station. A hallmark of the Amateur Radio Service has been that all frequencies are shared. The expectation of any station that it can operate in a totally interference-free environment, therefore, is unreasonable. We also believe that subdividing amateur service frequency bands would undercut the voluntary band planning that the amateur service community does and would result in a loss of flexibility to reallocate spectrum as licensee's operating interests change, new technologies are incorporated, and frequency bands in the radio spectrum are reallocated.⁷⁸

We also note that some commenters express the view that weak signal operation is a minority operating interest within the VHF amateur service community,⁷⁹ and that we should not set aside frequency bands on the basis of personal operating interests.⁸⁰ Other commenters dispute the need for protecting weak signal operations.⁸¹ Mr. Ruh and the ARRL state that the requested rule amendment is not necessary and that user education can solve the problem that CSVHFS believes exists.⁸²

23. After consideration of the record, we do not believe that the proposed revisions to the rules are necessary. We believe that the policy the Commission recently articulated in WT Docket No. 97-12 applies to any request that we subdivide amateur service frequency bands on the basis that operating interests of one group of licensees may interfere with the operating interests of other licensees. We also are concerned that subdividing amateur service bands on the basis of operating interests would result in a loss of flexibility to accommodate changes in operating trends and emergence of new technologies. Rather, we agree with ARRL that education and the application of rules such as Sections 97.313 and 97.101(c) and (d) should be sufficient to minimize interference.⁸³ For this reason, we will dismiss RM-9672.

⁷⁸Id. at ¶ 25.

⁷⁹No Code International Comments at ¶ 6-7; Henry Ruh Comments at 2 (few operators in these bands).

⁸⁰No Code International Comments at ¶ 3-4, Texas VHF-FM Society Comments at 3-4, Henry Ruh Comments at 1-2.

⁸¹Texas VHF-FM Society Comments at 2-3.

⁸²Henry Ruh Comments at 1; ARRL Comments at 10.

⁸³ARRL Comments at 10 (citing 47 C.F.R. §§ 97.101(c), (d), 97.313).

III. CONCLUSION

24. On the basis of the above, we conclude that the requests in the above-captioned petitions for rule making have been previously considered by the Commission, or are unnecessary in light of the existing rules, and do not warrant further consideration at this time.

25. Alternate formats of this *Order* (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418-0260, TTY (202) 418-2555, or by e-mail at <mcontee@fcc.gov>. This *Order* also is available at the Commission's internet site at: <<http://www.fcc.gov>>.

IV. ORDERING CLAUSES

26. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 303(r), and Section 1.401(e) of the Commission's Rules, 47 C.F.R. § 1.401(e), that the petitions for rulemaking filed by the American Radio Relay League, Inc., RM-9106, RM-9115, and RM-9259 on May 23, 1997, March 12, 1997, and April 3, 1998, respectively, ARE HEREBY DISMISSED WITHOUT PREJUDICE.

27. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 303(r), and Section 1.401(e) of the Commission's Rules, 47 C.F.R. § 1.401(e), that the petition for rulemaking filed by James Cardillo-Lee, RM-9114, on March 10, 1997, IS HEREBY DISMISSED WITHOUT PREJUDICE.

28. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 303(r), and Section 1.401(e) of the Commission's Rules, 47 C.F.R. § 1.401(e), that the petition for rulemaking filed by the Central States VHF Society, RM-9673, on May 3, 1999, IS HEREBY DISMISSED WITHOUT PREJUDICE.

29. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

30. For further information, contact William T. Cross, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, at (202) 418-0680.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunication Bureau