

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

In the Matter of
NATIONAL RADIO EXAMINERS
Request for Waiver of Section 13.203
the Commission's Rules

ORDER

Adopted: December 20, 2001

Released: December 27, 2001

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

1. Introduction. On August 15, 2001, the National Radio Examiners (NRE) requested a waiver of Section 13.203(a)(5) of the Commission's Rules, 47 C.F.R. § 13.203(a)(5), to allow it to give a 100-question test, with a minimum passing score of 75 questions answered correctly, for Commercial Operator License Examination (COLE) Element 7 (Global Maritime Distress and Safety System (GMDSS) Radio Operating Procedures). For the reasons set forth below, we grant NRE's request.

2. Background. On July 25, 2001, we approved a new question pool for Element 7 of the COLE as a replacement for the GMDSS question pool then used to examine candidates for the Commission's GMDSS Operator Certificate (GOC). We concluded that adoption of the new question pool for Element 7 was warranted because it eliminated questions involving implementation dates that had already passed, and reflected the current duties and responsibilities of commercial radio operator licensees. The new question pool consists of 600 multiple-choice questions regarding 100 key topics. Each of the key topics has six questions. Thus, we envisioned that a random selection of one question from each key topic should result in a well-balanced 100-question examination. Entities administering COLEs were permitted to begin using the new question pool immediately, or could continue to use the old questions for a period of six months following the release date of the Question Pool Public Notice. However, the new questions must be used beginning six months from the release date of the Question Pool Public Notice.

3. Section 13.203(a)(5) of the Commission's Rules provides that for Element 7, entities administering COLEs use a 76-question test, with a minimum passing score of 57 questions answered correctly. NRE states that it wishes to implement the new question pool immediately. It accordingly

1 Electronic mail from National Radio Examiners dated August 15, 2001 (Waiver Request).

2 Wireless Telecommunications Bureau Approves New Commercial Operator License Examination (COLE) Question Pool for Element 7 (Global Maritime Distress and Safety System (GMDSS) Radio Operating Procedures), Public Notice, 16 FCC Rcd 14466 (WTB PSPWD 2001) (Question Pool Public Notice).

3 Id. at 14466.

4 In order to allow this six-month transition period, we waived Section 13.215 of the Commission's Rules, 47 C.F.R. § 13.215, which otherwise would have required use of the new pool immediately. Question Pool Public Notice, 16 FCC Rcd at 14466 n.2.

5 47 C.F.R. § 13.203(a)(5).

6 Waiver Request at 1.

seeks a waiver of Section 13.203(a)(5) in order to use a 100-question examination. On September 14, 2001, we sought comment on NRE's request.<sup>7</sup>

4. *Discussion.* A request for a rule waiver may be granted if it is shown that (a) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and a grant of the requested waiver would be in the public interest; or (b) in view of unique or unusual factual circumstances of the instant case, application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>8</sup> All of the commenters support grant of NRE's waiver request. They argue that a waiver of Section 13.203(a)(5) to allow a 100-question examination for Element 7 will allow for a more accurate and pertinent examination, thereby benefiting the maritime and instructional communities.<sup>9</sup> We have reviewed the record, and find that grant of the requested waiver would be in the public interest. In addition, we conclude that grant of the requested waiver will further the underlying purpose of our Part 13 rules, which is to promote excellence and efficiency in the licensing of commercial radio operators.<sup>10</sup>

5. For the reasons set forth above, we grant the waiver requested by NRE to permit immediate implementation of a 100-question test for GMDSS Element 7 (Global Maritime Distress and Safety System (GMDSS) Radio Operating Procedures). Pursuant to this waiver, any party administering an Element 7 examination may use a 100-question test, with a minimum passing score of 75 questions answered correctly.

6. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, the Request for Waiver of Section 13.203(a)(5), filed by the National Radio Examiners on August 15, 2001 IS GRANTED.

7. 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.

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>7</sup> Wireless Telecommunications Bureau Seeks Comment on Request for Waiver of the Commission's Rules to Allow a 100-Question Test for Commercial Operator License Examination Element 7 (Global Maritime Distress and Safety System (GMDSS) Radio Operating Procedures), *Public Notice*, 16 FCC Rcd 16455 (WTB PSPWD 2001). Comments were received from Kurt Anderson (Pacific Northwest Maritime Institute), Captain Gary E. Tober (Master Mariner, Oceans, Unlimited Tonnage), and Owen Anderson.

<sup>8</sup> 47 C.F.R. § 1.925(b)(3).

<sup>9</sup> See Kurt Anderson Comments at 1; Gary Tober Comments at 1.

<sup>10</sup> 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 ¶ 26 (1993).