



Federal Communications Commission
Washington, D.C. 20554

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Small Entity Compliance Guide

Amendment of the Commission's Rules Concerning Commercial Radio Operators

FCC 13-4

WT Docket No. 10-177

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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I. OBJECTIVES OF THE PROCEEDING

In a *Report and Order* in WT Docket No. 10-177 (FCC 13-4), the Commission amended the Part 13 rules governing commercial radio operator licenses for maritime and aviation radio stations. These rules generally 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. In the *Report and Order*, the Commission updated and clarified these rules by consolidating the classes of radiotelegraph operator's certificates to reflect advancements in radio telegraph technology and eliminating provisions that refer to outdated services, equipment, and technology. The Commission also eliminated redundant and outdated restrictive endorsements; modified certain procedural and recordkeeping requirements applicable to commercial operator license examination managers (COLEMs); clarified the rules that pertain to log-keeping requirements; and made administrative changes to rules contained in Parts 0, 1, 80, and 87 that relate to commercial radio operators.

II. REGULATIONS AND POLICIES THAT THE COMMISSION ADOPTED OR MODIFIED, INCLUDING COMPLIANCE REQUIREMENTS

In the *Report and Order* the Commission took the following actions:

- Consolidated the three classes of radiotelegraph operator's certificates;
- Eliminated redundant and outdated restrictive endorsements;
- Modified certain procedural and recordkeeping requirements applicable to COLEMs;
- Clarified the rules that pertain to log-keeping requirements;
- Declined to change the current process for maintaining question pools, and the rules that pertain to equipment testing intervals.

A. Commercial Operator Licensing Issues

1. Radiotelegraph Operator's Certificates

The Commission consolidated First Class Radiotelegraph Operator's Certificates and Second Class Radiotelegraph Operator's Certificates into a new license class, the Radiotelegraph Operator License. Radiotelegraph Operator License applicants will be required to pass written Elements 1 and 6, and Telegraphy Elements 1 and 2. The Commission concluded that it need not require applicants to pass both written Elements 5 and 6, because the material tested by written Element 6 builds upon knowledge needed to pass written Element 5. Upon the effective date of the rules adopted in this *Report and Order*, the Commission will cease accepting applications for new First and Second Class Radiotelegraph Operator's Certificates, and existing First and Second Class Radiotelegraph Operator's Certificates will be renewed as Radiotelegraph Operator Licenses.

Also, the Commission will cease accepting applications for new Third Class Radiotelegraph Operator's Certificates. Existing Third Class Radiotelegraph Operator's Certificates will be renewed as Marine Radio Operator Permits. Holders of Third Class Radiotelegraph Operator's Certificates that are renewed as Marine Radio Operator Permits will retain element credit for having passed Telegraphy Elements 1 and 2, so they (but not other Marine Radio Operator Permit holders) will be able to upgrade to a Radiotelegraph Operator License by passing written Element 6, just as Third Class Radiotelegraph

Operator's Certificate holders currently must pass written Element 6 to upgrade to a Second Class Radiotelegraph Operator's Certificate.

After the rule changes adopted in this *Report and Order* take effect, Radiotelegraph Operator Licenses (both new licenses and those issued upon the renewal of a First or Second Class Radiotelegraph Operator's Certificate) will be issued without an expiration date. (Other commercial operator licenses already are valid for the lifetime of the holder.) The Commission will discontinue the current practice of putting licensees' photographs on radiotelegraph operator certificates, *see* FCC Form 605 Schedule E Instructions at 1, because a photograph's usefulness in identifying the bearer would diminish over his or her lifetime. Current Third Class Radiotelegraph Operator's Certificates that are renewed as Marine Radio Operator Permits also will be issued without an expiration date, like other Marine Radio Operator Permits.

The Commission eliminated the prohibition on simultaneously holding a radiotelegraph operator's certificate and another unexpired radiotelegraph operator's certificate, a Marine Radio Operator Permit, or a Restricted Radiotelephone Operator Permit.

2. Other Licensing Issues

The Commission amended Section 13.7 of the Commission's Rules and eliminated certain obsolete license endorsements. It also amended Section 13.10 of the Commission's Rules, which already requires licensees to specify a valid mailing address, to provide that the Commission can suspend a commercial radio operator license if Commission correspondence is returned as undeliverable because the applicant failed to provide a correct address.

B. COLEM Issues

In 1993, the Commission delegated the preparation and administration of commercial operator license examinations to COLEMs. 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. (*See* 47 C.F.R. §§ 13.213, 13.217).

1. Maintenance of Question Pools

The Wireless Telecommunications Bureau (WTB) currently reviews and approves updates proposed by private entities or individuals, but no longer generates question pools itself. The Commission proposed in this proceeding to make COLEMs responsible for maintaining the question pools, but concluded in this *Report and Order* that the possible benefits to examinees (in terms of accurate, timely question pools) of delegating responsibility for maintaining the question pools for commercial radio operator license examinations would not be commensurate with the administrative and financial burdens that it would impose on COLEMs. The Commission therefore will retain the current process for maintaining the question pools.

2. Other COLEM Issues

The Commission revised certain procedural requirements applicable to COLEMs:

- Shortened the time in which COLEMs are required by Section 13.211(e) to notify examinees of their examination results (and issue a proof-of-passing certificate to

successful examinees) from ten days to three business days.

- Amended Section 13.13 to require COLEMs filing applications on behalf of applicants to submit the information electronically.
- Section 13.217 requires COLEMs to retain “records of expenses and revenues, frequency of examinations administered, and examination pass rates.” The FCC concluded that COLEMs no longer need to submit this information to the WTB on a regular basis; instead, it must be submitted only upon Commission request. The Commission also amended the rule to require COLEMs to retain the information for three years instead of the current one-year retention period.
- COLEMs no longer required to obtain Commission approval to change their fees for administering examinations. Going forward, COLEMs need only notify the WTB of changes in their fee structure.

C. Equipment Testing and Logging Requirements

The Commission restructured Section 80.409 so that the logging requirements are grouped more logically by subject matter and the applicability of the logging requirements to different classes of vessels is clearer. The Commission also added a cross-reference to subpart W of Part 80, so that log-keepers on GMDSS vessels are aware that they must be familiar with those subpart W GMDSS rules to ensure full compliance with the logging requirements.

III. RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS

COLEMs would be required to retain certain records for three years, instead of the existing one-year retention period, but would submit that information to the Commission only upon request, instead submitting it on a regular schedule as occurs presently. This would effectively eliminate the existing economic burden related to the reporting requirement, and it would not create any additional measurable economic burden in connection with the extended recordkeeping requirement. COLEMs would also be required to provide examination results to examinees within three business days, and to use electronic filing when submitting applications on behalf of examinees. Because almost all COLEMs already meet both of these requirements, this also would create no additional economic burden on COLEMs. These requirements will not impose a substantial burden on businesses with fewer than 25 employees. The Commission believes that the changes adopted in this *Report and Order* will promote flexibility and more efficient use of the spectrum, without creating administrative burdens on COLEMs. Many of the adopted changes constitute clarification of existing requirements or elimination of reporting requirements and other rules that are outdated.

For details of other compliance requirements refer to the *Report and Order*.

IV. WEBLINK

The *Report and Order*, FCC 13-4, was adopted January 8, 2013 and released January 8, 2013. An *Erratum* was released on January 14, 2013. Final rules adopted in the *Report and Order* are effective on May 20, 2013, except for Sections 1.913(d)(1)(vi), 13.13(c), and 13.9(c), which contain modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act. On April 18, 2013, the Federal Communications Commission published a

document in the Federal Register announcing such approval and the relevant effective date (78 FR 23150 (April 18, 2013)).

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-13-4A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-13-4A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-13-4A1.txt