

W5YI

National Volunteer Examiner Coordinator

REPORT

Up to the minute news from the world of amateur radio, personal computing and emerging electronics. While no guarantee is made, information is from sources we believe to be reliable. May be reproduced providing credit is given to The W5YI Report.

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RECIPROCAL OPERATING AGREEMENT WITH MEXICO

On July 9th, the FCC has released a rather cryptic announcement that formal reciprocal Amateur Radio operating arrangements between the U.S. and Mexico were imminent. The news bulletin states:

"The Commission is pleased to announce that, pursuant to the *Inter-American Amateur Radio Service Convention ("Lima Convention")*, Mexico and the United States have made reciprocal arrangements to permit amateur operators of each country to operate their stations in the other country.

"This reciprocal arrangement will assist both countries in harnessing the power of technology for their mutual benefit. The amateur radio services are ever at the forefront of technology. Many years ago amateur operators built the first land mobile systems and first hand held radios. Today they are pioneering digital and satellite communications technologies. Further, amateur operators of both countries serve society well by being ready, willing and able to communicate when a disaster or emergency cripples normal communications systems.

"The Commission will issue a separate public notice describing the procedures to follow for Mexican amateur operators wishing to operate their stations in the United States, as well as the

procedures for United States amateur operators desiring to operate their stations in Mexico."

Actually, everyone expected formal reciprocal amateur operating arrangements with Mexico to be in effect years ago! The *Fifth Inter-American Telecommunications Conference (CITEL)* took place in Lima, Peru some four years ago!

The preparatory Executive Committee meeting of CITEL (Mexico City, July 1987) had a universal operating arrangement among all signatories to the CITEL Convention as its primary proposal. It was thought at the time that the adoption of the *Lima Convention* would pave the way for a universal amateur operating arrangement similar to that which exists in Europe. The CEPT countries (a French acronym for a group of European nations) allow amateur operation in all of their nations if you are licensed as in amateur in any one of their countries.

The Lima Convention ended on August 14, 1987, and the treaty was supposed to go into effect when a certain number of countries accepted it. The amateur community has been waiting for years for something to happen on the matter. Although an informal amateur operating arrangement already exists between the U.S. and Mexico, apparently Mexico is ready to adopt a more

formal arrangement. We tried to contact the FCC's Frank Williams (also Extra Class N4FK) in their treaty branch for more information, but he was on vacation. More info will be forthcoming - hopefully in time for our next issue.

SCANNER LAW REPLY COMMENTS

Hams Respond to Michigan Police

The comment period for PR 91-36 has now closed. This *Notice of Inquiry (NOI)*, prompted by an ARRL petition, asks whether the FCC should pre-empt state and local laws that forbid amateurs from having equipment capable of receiving public-safety and government frequencies. As with the comments we summarized earlier, the reply comments filed July 8 are of high quality. Even so, FCC commissioners have stated their reluctance to pre-empt local laws where the authorities believe they are acting in the best interests of public safety.

As a shock to everyone, the FCC NOI also inquired into whether modifications could be made to the receive section of transceivers to prevent them from public-safety band coverage. Confusion continues to exist over the FCC's willingness to acknowledge the scope of the NOI to cover scanners and not merely ham and GMRS transceivers and radios in other licensed services.

Despite the public pronouncements of FCC Commissioner Sherrie Marshall that invited comment on modifications to scanners, FCC Private Radio Bureau Chief **Ralph Haller/N4RH** maintains that the inquiry "...does not, however, address...the possession or operation of unlicensed 'scanners.'"

Haller made the statement in a letter to U.S. Rep. Beverly Byron (D-Md.). She asked the FCC for information on the NOI after receiving comments of GMRS user and volunteer fireman William Lawton of Mt. Airy, Md.

"I have been harassed by the Virginia State Police for having a scanner," Lawton wrote. "I have to travel to Virginia and Washington D.C. once in a while for my regular job. To be expected to remove this equipment and reinstall it every time I go into another state is ridiculous... It is infuriating that States would make laws that take away the basic rights of citizens such as myself who contribute to the community or others that use these radios and do not use them to break

the law."

"Amateurs should be able to travel interstate, and intrastate, without fear that their licensed, public service and emergency communications, should subject them to arrest and forfeiture of their equipment, as they have a legitimate need for extended coverage receivers," the ARRL said in reply comments. "The Commission need not address the issue of monitoring of public service communications in this proceeding, but merely the entitlement of licensees in the Amateur Radio Service to possess such receivers, which have legitimate, and arguably very important public service uses."

"[T]his equipment cannot be re-engineered to comply with the laws at issue, and it is not feasible, nor justifiable, to restrict the coverage of amateur receivers under the circumstances," the League said.

The sole commenter in favor of restrictions on amateurs was David Held of the Communications Section, Michigan State Police. Michigan's Motor Vehicle Code prohibits equipping a vehicle with a radio capable of receiving police frequencies. It exempts police officers, licensed amateurs (except for Novices) and those issued a permit from the State Police including press, volunteer fire and ambulance personnel.

Amateur exemption should be removed

However, Held told the FCC that the exemption for amateurs is obsolete. It was placed in the law in the 1940s when "...technology was not able to separate the [ham and public-safety] bands. That has now changed and should eliminate this need [for the exemption]." Held said that there should be "no problem blocking public safety bands from amateur equipment thus eliminating the risk to amateur licensees for arrest under 'scanner laws' and the need for their exemption from prosecution."

He also noted that "An officer with little technical knowledge of radio will arrest and confiscate equipment of all kinds until he can ascertain the facts from trusted technical people."

The Michigan State Police filing was of great interest to Michigan amateurs and to the Personal Radio Steering Group, the GMRS organization in Ann Arbor, Mich. Most of the reply comments

WOULD YOU LIKE TO BECOME A VOLUNTEER EXAMINER? If so, please send a copy of "The W5YI Report" Program? If so, please send a copy of
I am a currently licensed Advanced, Extra Class amateur radio operator. I have ham public safety other frequencies. I do not own a station or operator license revoked or suspended. I do not own a sig-

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concerned the Michigan situation and the confusion over whether amateurs need to apply for permits. **Mark D. Travaglini/W8DPA** of Manchester, Mich. noted that as a trustee of several ham repeaters, he needed to monitor them and the most practical way to do this was with a scanning receiver that also covered public safety bands.

Permit expected

"I had no need or desire to monitor any public safety communications but the device I required had the capability," Travaglini told the FCC. "At home this has been my practice but with the Michigan Law covering the possession of such devices in motor vehicles I was hesitant. So I checked with the local law enforcement officials... I was told that I would still be 'expected' to obtain a local permit. I was also told that it was doubtful that I could receive such a permit since I could not demonstrate a professional need for use of such a device - even with the direct exemption for Amateur Radio operators spelled out in the Michigan statute. I was further discouraged by the assertion that it was not department policy to educate officers as to this provision of the statute and to 'let the courts sort it out.' Not wishing to incur the staggering costs of a legal battle I refrained from purchasing one of the units for mobile use."

Stephen F. Andre/WB8WSF of Ann Arbor recalled reporting an accident by Amateur Radio. By listening to police frequencies he learned that the police had misunderstood or incompletely received the accident report. With this information he was able to make a second call and correct their directions. Andre called for an end to the "legal quagmire" caused by the many different laws "created by legislators acting in the stead of unclear action from the FCC."

Held changes tune?

Corwin D. Moore Jr./WB8UPM of the Personal Radio Steering Group reported that in a telephone conversation, Held modified his position. "The recurrent theme from his statements in our conversation was that if a solid justification for possession of the allegedly prohibited equipment could be cited, the appropriate time and place to do so would be *in court* ..."

Moore said it is not acceptable that someone operating a licensed radio transmitter and/or an associated receiver, especially someone tracing the source of interference, should be subjected to the harassment and inconvenience of having to appear in court, not to mention the legal costs and time lost from work. "In practice," he said, "Michigan amateurs have had their 'suspected' ham transceivers confiscated, to recover them only after complaining to the ticketing officer's superiors or in court. This has occurred despite the statutory exemption, embodied directly in the Michigan law itself, which is supposed to exclude amateur radio licensees from the provisions of this Michigan law."

When confronted with the fact that so many licensed transceivers in various services have multi-channel (including public safety band) coverage, Held "modified his position to the extent that he now concedes the need for federal consideration for the rights of operators of licensed radio transmitters," Moore noted.

- **The FCC has extended the deadline** for comments on the ARRL's petition RM-7747 to make 216-220 MHz available to the Amateur Service. The extension was requested by Waterway Communications System, which operates the Automated Maritime Telecommunications System in the 216-220 MHz band. Waterway wants additional time to conduct engineering analysis of the ARRL's proposal. The new deadline for comments is Oct. 23, 1991.
- According to the Washington Post, **Orbital Sciences Corp. lost contact with the Orbcomm-X satellite** shortly after launch July 16. The \$2 million suitcase-sized satellite is the first of a planned series of low-Earth orbit satellites for a global data service. The system operates under an experimental FCC license. Orbcomm-X is to transmit standard AX-25 packets at 1200 bps on 137.225 MHz. The system will even be used to handle automatic teller machine communications.
- The National Association of Broadcasters is calling for **FCC pre-emption of state and local zoning laws** that "slap a patchwork of burdensome and inconsistent restrictions on the placement of satellite dishes, broadcast transmitters

Technical license. Cost: \$29.95 plus \$2.00 shipping. W5YI, P.O. Box #303101, Dallas, TX 75356. Tel. (1-800-669-W5YI) (9594)

and consumer antennas." NAB called these laws 'discriminatory,' 'not-in-my-backyard' ordinances that damage the public interest. NAB noted that in 1985 the FCC took a similar action (PRB-1) that, in the association's words, "...should have voided several local zoning laws that unfairly limited the placement of antennas used by amateur radio operators."

We believe that behind the NAB request are two important concerns: First, communities may oppose the placement of new broadcast antenna facilities; secondly, ordinances against conventional home receiving antennas might interfere with what NAB called "...the continuation of free broadcasting services to the public." In other words, consumers restricted from placing outdoor antennas might be tempted to subscribe to cable TV instead. Increased use of cable tends to undermine broadcasters' position that precious electromagnetic spectrum is required to deliver television to consumers.

- Grove Enterprises has released the 1991 edition of the *Listener's Lawbook*, the guide to listening laws including the Communications Act, the Electronic Communications Privacy Act and the laws of states that restrict receiver transportation, possession and use. State laws analyzed include those of California, Florida, Indiana, Kentucky, Maine, Michigan, Minnesota, Nebraska, New Jersey, New York, North Dakota, Oklahoma, Rhode Island, South Dakota, Vermont and West Virginia. Authored by attorney *Frank Terranella/N2IGO*, the *Listener's Lawbook* (number BOK16) is available for \$11.95 (U.S. shipping included) from Grove, P.O. Box 98, Brasstown NC 28902, 704/837-9200.

- Attorney *John J. McVeigh/KD4VS* has filed a massive (53 pages, single-spaced) *Petition for Reconsideration* on behalf of the FCC's finding that his client *Richard A. White, KA3T* broke the Rules when he allowed a questionable packet message to flow through his amateur station.

The pleading demands that the Commission "...withdraw and expunge the January 25, 1991 *Notice of Violation* charging Mr. White with allegedly violating §97.113(a) of the Rules" which prohibits the use of Amateur Radio "...to facilitate the business or commercial affairs of any party." Although not on the message header, White's

packet station automatically relayed a "Coalition vote-by-900-phone" message opposing U.S. military involvement in the Persian Gulf. The FCC is taking the position that the "900" Coalition reference constitutes an outlawed business activity.

Attorney McVeigh maintains White committed no violation because the message header did not include White's call sign, the message could have been composed and transmitted by anyone without any involvement by Mr. White's station ...and the message was *First Amendment* protected speech. Further he contends the wording of Section §97.113(a) "...is vague and overly broad."

"This episode has drawn national attention both in the general news and particularly among Radio Amateurs. Amateurs need to know that they may engage in the Constitutionally protected exercise of free political speech over the airwaves without fear of governmental harassment."

McVeigh again asks the Commission to either withdraw or remove the *Notice* from White's record. According to McVeigh, the FCC Norfolk, VA, engineer-in-charge (EIC J. Jerry Freeman) who issued the *Notice of Violation* later amended the *Notice* to indicate that a possible violation "*may*" have occurred. McVeigh contends the EIC clearly intended the Jan. 25 letter to be a *Notice of Violation*. "...unwarranted speculation belongs in no file or record of this Commission. No doubt the EIC would object to an entry in his FCC personnel file that he "*may*" have abused his authority in issuing the *Notice* in the first place. However, while the EIC's file "*may*" richly deserve such an entry, Mr. White's record as an FCC licensee in no way deserves the totally unwarranted stain that the *Notice* represents."

The *Petition for Reconsideration* contains several exhibits - including some from the *W5YI Report*. (Filed with the Commission on July 17, 1991.)

- The *Texas VHF-FM Society*, the recognized repeater coordination body in Texas, *has adopted a resolution supporting RM-7646*. This petition looks toward holding originators of Amateur third party traffic primarily responsible for the message content with automatic relay stations being secondarily accountable. *Public Notices* circulated by the FCC indicate that this petition is receiving much interest from the amateur community with many other supporting comments being filed.

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JUNE VE PROGRAM STATISTICS

<u>June</u> <u>No. VEC's</u>	<u>1989</u> <u>*18</u>	<u>1990</u> <u>*18</u>	<u>1991</u> <u>*18</u>
Testing Sessions	501	485	572
<u>VEC</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
ARRL	43.8%	43.9%	50.9%
W5YI	28.7	36.3	30.9
DeVRY	5.6	3.5	4.4
CAVEC	4.8	5.4	3.3
Others (14)	12.6	10.9	10.5
Year-to-Date Sessions	2748	3046	3716
Elements Administ.	8860	8435	12913
<u>VEC</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
ARRL	55.4%	48.3%	56.1%
W5YI	22.7	30.7	22.8
CAVEC	4.1	6.6	4.7
DeVRY	4.2	2.5	3.8
Others (14)	13.6	11.9	12.6
Year-to-Date Elements	51933	56281	83845
Applicants Tested	5253	5306	7867
<u>VEC</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
ARRL	55.1%	48.1%	56.5%
W5YI	22.8	30.7	22.7
CAVEC	3.7	5.6	4.0
DeVRY	4.2	2.8	4.3
Others (14)	14.2	12.8	12.5
Year-to-Date Tested	30746	34234	50279

<u>June</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
Pass Rate - All	62.4%	62.4%	66.7%
Applicants/Session	10.5	10.9	13.8
Elements/Applicant	1.7	1.6	1.6
Sessions Per VEC	27.8 (*)	26.9	31.8

Administrative Errors by VE's/VEC's

<u>June</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
Defect. Applications	0.5%	0.9%	0.5%
Late Filed Sessions	1.8%	4.3%	2.6%
Defective Reports	1.2%	0.6%	0.3%

(*) Note: The FCC previously considered ARRL, W5YI and DeVry to be 13 VEC's each since VEC's initially were appointed on a regional basis. Since any VEC may now coordinate examinations in any region, the FCC reduced the number of VEC Regions (62) to VEC Organizations (18.) We have adjusted 1989 figures to reflect this change.

While the number of test elements administered has dropped dramatically since the advent of the Codeless Technician, it is still larger than for any month in 1990!

[Source: Personal Radio Branch/FCC; Washington, D.C.]

AMATEUR RADIO CALL SIGNS

...issued as of the first of July 1991:

<u>Radio</u> <u>District</u>	<u>Gp.*A</u> <u>Extra</u>	<u>Gp.*B</u> <u>Advan.</u>	<u>Gp.*C</u> <u>Tech/Gen</u>	<u>Gp.*D</u> <u>Novice</u>
0 (*)	AA0FB	KF0SI	N0OKN	KB0JIM
1	WT1G	KD1BZ	N1JKP	KA1ZAY
2 (*)	AA2FH	KF2CJ	N2MYJ	KB2NET
3	W03H	KD3XR	N3JVU	KA3ZFE
4 (*)	AC4GT	KO4DW (***)		KD4CDN
5 (*)	AA5ZD	KI5RF	N5ULO	KB5QAD
6 (*)	AB6DO	KM6CX (***)		KC6WRW
7 (*)	AA7JC	KG7QT	N7SNE	KB7NVV
8 (*)	AA8EB	KF8NY	N8PCJ	KB8MUJ
9	AA9BE	KF9EB	N9LUR	KB9HAP
N.Mariana Is.	AH0K	AH0AH	KH0AN	WH0AAQ
Guam	KH2R	AH2CK	KH2FF	WH2AMU
Johnston Is.	AH3D	AH3AD	KH3AG	WH3AAG
Midway Is.		AH4AA	KH4AG	WH4AAH
Hawaii	(**)	AH6LH	WH6AN	WH6CNA
Kure Is.			KH7AA	
Amer. Samoa	AH8D	AH8AE	KH8AI	WH8ABA
Wake W.Peale	AH9A	AH9AD	KH9AE	WH9AAH
Alaska	(**)	AL7NH	NL7XW	WL7CCL
Virgin Is.	NP2P	KP2BZ	NP2EF	WP2AHJ
Puerto Rico	(**)	KP4SC (***)		WP4KDH

CALL SIGN WATCH: *=All 2-by-1 "W" prefixed call signs have been assigned in every radio district except the 3rd call sign area. Two-by-two format call signs from the AA-AK block are assigned to Extra Class amateurs when 2-by-1's run out.

**=All Group A (2-by-1) format call signs have been assigned in Hawaii, Alaska and Puerto Rico. Group "B" (2-by-2) format call signs are assigned to Extra Class when Group "A" are depleted.

***=Group "C" (primarily 1-by-3) call signs have now run out in the 4th, 6th and Puerto Rico call districts. *Alaska will shortly be next!* According to the rules (adopted by the Commission February 8, 1978, Docket No. 21135), Technician/-General class amateurs are next assigned Group "D" (2-by-3 format) call signs when all Group "C" have been assigned. Upgrading Novices holding a 2-by-3 format call sign in the 4th, 6th and Puerto Rico call areas will no longer be able to request a Group "C" call *and will be automatically assigned another more recent 2-by-3 format call sign if they do!* Contrary to the wishes of many amateurs, the FCC has said they will not be going back and re-assigning unused "K" and "W" 1-by-3 format call signs.

[Source: FCC, Gettysburg, Pennsylvania]

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GROWTH IN AMATEUR RADIO TESTING

Since the Feb. 14th launching of the new *Codeless Technician* ham class, testing activity in the Amateur Radio Service has expanded dramatically ...as evidenced by figures recently released by the FCC's Personal Radio Branch. The percentage of applicants passing amateur tests is also up significantly. This translates to many more amateurs!

Volunteer Examiners have already examined more applicants and administered more examination elements in the first six months of 1991 *than in all twelve months of 1987!* Here are the figures:

(* = For comparison's sake, January figures have been excluded since examinations for the code-free Technician class did not start until February.)

Month/ Year	No. of Sessions	No. of Persons	No. of Elements	Pass Rate
1988*	2185	26902	45271	61.4%
Increase	+13.1%	+10.2%	+16.6%	
Feb 89	400	4311	7284	61.7%
Mar 89	516	6197	10441	61.7%
Apr 89	457	5503	9256	62.2%
May 89	520	6169	10440	62.1%
Jun 89	<u>501</u>	<u>5253</u>	<u>8860</u>	<u>62.4%</u>
1989*	2394	27433	46281	61.9%
Increase	+9.6%	+2.0%	+2.2%	
Feb 90	421	4336	7371	61.3%
Mar 90	578	6945	11629	61.6%
Apr 90	528	6594	10677	60.5%
May 90	572	6686	10840	60.5%
Jun 90	<u>485</u>	<u>5306</u>	<u>8435</u>	<u>62.4%</u>
1990*	2584	29867	48952	61.2%
Increase	+7.9%	+8.9%	+5.8%	
Feb 91	469	4995	8076	63.1%
Mar 91	638	9205	15572	65.6%
Apr 91	711	10779	18506	66.8%
May 91	945	13819	22940	66.5%
Jun 91	<u>572</u>	<u>7867</u>	<u>12913</u>	<u>66.7%</u>
1991*	3335	46665	78007	65.8%
Increase	+29.1%	+56.3%	+59.4%	

The big question, of course, is will it continue? Stay tuned.

- On June 28, 1991, the FCC issued a \$300.00 fine (*Notice of Apparent Liability to Monetary Forfeiture*) to **Bruce E. Richards, WD4NGB, of Clarksville, Tennessee**. He is charged with altering a *Certificate of Successful Completion of Examination (CSCE)* issued by a Western Carolina ARS-VEC examination team so he would receive credit for the 13 wpm telegraphy examination. Richards actually had passed Element 3A (Technician written) and 3B (General written) on January 26, 1991 in Gallatin, Tennessee.

On March 9th, Richards retook the previously passed Element 3(B) in Nashville and presented a photocopy of the altered CSCE to an ARRL-VEC testing team in an effort to receive examination credit for Element 1(B) which would qualify him for the General Class operator license.

The VE team became suspicious when the applicant could not produce the original CSCE. A telephone conference call between the two VEC's confirmed the fraudulent certificate and the matter was turned over to the Commission for handling.

- Robert A. Pohorence, N8RT** (Fort Pierce, Florida), president of *International Radio and Computer, Inc.*, wants everyone to be on the lookout for an ICOM IC-228H (serial number: 027497) which "...was stolen by fraud by Joanna Burke/-Cannuli. A bad check with a fictitious driver's license was given for the purchase... Neither the check nor the driver's license was valid. If this radio shows up, call Detective Williams of the St. Lucie County Sheriff's Office at 407/461-7300, Ext. 310." (Pohorence phone number: 407/489-0956)

- Members of the **Oregon Region Relay Council**, the official repeater coordinator in Oregon, have started a fund raising drive to raise money to donate to the Khabarovsk amateur radio operators of the Soviet Union a fully operational two-meter repeater; tuned up and ready to function. This includes a receiver, transmitter, hard line, antenna, duplexer, some form of control circuit and all necessary documentation. The only thing required to make it operational will be a source supply of 12 volts DC. The Khabarovsk area does not currently have any repeaters. Donations to: Oregon Regional Relay Council, Inc., P.O. Box 25451, Portland, OR 97225-0451 to the attention of **John Newman/KA7QFY**. (Tel. 503/535-1411)

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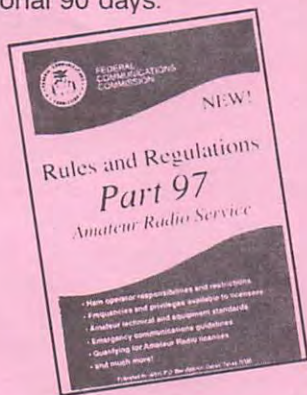
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● Be sure to take in the Amateur Radio exhibit if you plan to attend the *Canadian National Exhibition* in Toronto. VE3CNE will be operating all bands and modes from the Arts and Crafts building from August 14 to Sept. 2nd.

● Kenwood has a new **TS-450A Compact HF Transceiver** (TS-690S same with 6 Meter capability.) Both have all the bells and whistles of the 440S and more! 100W output (50W on 6M); 100 memory channels, with or without antenna tuner, all band/all mode with general coverage receiver. List: \$1549.95 (TS-450A without tuner: \$1349.95.) Street price is less.

● Don't forget that **all amateurs must vacate 220-222 MHz** by 0000 hours UTC, August 28, 1991. The Rules reallocating 220-222 MHz to Land Mobile operation became effective May 29, 1991. Amateurs were allowed to operate only for an additional 90 days.



● The FCC has released a 35 page *Report and Order* (with 2 Errata changes) concerning the transition of 220-222 MHz to Land Mobile. It also states the new Part 97 Rules. We have taken these new Rules and incorporated them into a newly updated **PART 97 RULEBOOK**. Cost is only \$1.95 for the updated Part 97 ...plus \$1.00 shipping, total: \$2.95. Available from: **W5YI, P.O. Box 565101, Dallas, TX 75356**. VISA/MC Orders to: [toll free] 1-800-669-9594

● A coalition of environmentalists and ham radio operators have teamed up to form the PLA/NET. Net meets on 14.285 or 14.330 MHz the first/third Saturday of each month. *Environmental Net* control is **Bob Wilderman, K3SRO**

● The *U.S. Court of Appeals for the Ninth Circuit* in San Francisco has ruled that **the FCC grants no right to its licensees to erect antennas**.

Vernon Howard, W6ERS of Burlingame, California filed suit against the City when he was denied permission to construct a 51 foot radio antenna in his backyard. Burlingame requires a special permit for ham radio antennas over 25 feet in height. Citing PRB-1, Howard argued his right to erect an antenna was guaranteed by federal preemption.

The City initially declined to issue the required permit on the grounds of safety, aesthetic concerns and potential disruption of radio and television signals. A District Court, however, agreed that the FCC had partially preempted the city's zoning powers and ordered the City to reconsider the application.

The City eventually granted the permit, but denied Howard's claim for recovery of attorney's fees. The Appeals Court said that the *Communications Act* grants no right to radio station licensees to erect antennas.

The June 19, 1991 decree by the Appeals Court declared "In PRB-1, the FCC declined to specify absolute height limitations and left a city free to deny an antenna permit as long as it considered the application, made factual findings and attempted to negotiate a satisfactory compromise with the applicant. ...The *Communications Act* nowhere mentions any right to erect antennas for ham radio transmissions, nor does it purport to

create binding obligations on local governments to allow antennas of any particular height.

"The FCC declaratory ruling entitled PRB-1 is the only regulation which addresses the conflict between ham operators' need for effective (i.e. tall) antennas and a municipality's enforcement of its local zoning ordinances.

"...the language of PRB-1 itself confers only a limited preemption, and promoted the federal interest in amateur radio operations rather than any individual operator's right to erect an antenna of his or her choice. Furthermore, it entitles the operator only to 'a reasonable accommodation' between the desired antenna height and 'the legitimate interests of local governments in regulating local zoning matters' not to an absolute preference."

The court declined the City's invitation to construct guidelines for handling future applications argued under PRB-1 and agreed with the FCC that municipalities must evaluate each application on its own merits.

● Residents of the Palos Verdes Peninsula are trying to raise money to save part of the legendary ridge above the Pacific Ocean that for nearly 50 years was Los Angeles' ear to the world. It is the site of the famed **Don Wallace W6AM Radio Ranch**.

Built in the 1930's as a foreign listening post for newspapers, it became American's foremost amateur radio station. W6AM signed off the air for the last time in 1985. The station was famous for its 150 wooden radio towers and the 45 miles of wire and rhombic antennas that was suspended between them. Don Wallace, W6AM purchased the 120-acre site in the 1940's for only \$35,000!

When Wallace died in 1985, his gear was put into storage; the antennas and the Radio Ranch

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bunkhouse torn down. Luxury \$1-million homes were built on the site. The developer agreed to donate both land and a museum building to the city, but \$165,000 is needed to complete the museum.

A fund raising campaign has been started by local amateurs and about \$42,000 has already been collected. Museum groundbreaking will take place once the fund hits \$100,000.

Ironically, deed restrictions prevent owners of the new luxury homes from having outdoor antennas without special permission from a homeowner architectural review committee! While the radio museum is likely become a reality, there is some doubt as to whether a ham radio tower will be allowed.

● **"Ask and ye shall receive" Department.** We mentioned the new Novice Class in the United Kingdom in our last issue and noted that the examinations were administered by the **"City and Guilds Institute."** We thought it was a city office, but several subscribers wrote and told us that this is a body that provides an examining service for technical trades and crafts in England. Actually all U.K. amateur license testing is conducted by *City and Guilds* examiners.

Another question we had concerned Morse code testing on only two punctuation marks; the question mark and the slant bar. We wondered what happened to the comma and period. Another reader advised that the "break sign" or **BT** is a general punctuation sign standing for the comma or 'full stop' in the British Isles.

The *Radiocommunications Agency* of the DTI (Britain's licensing authority) now allows amateurs to operate "mobile" and use horizontal polarization on 6 meters. British high frequency (3.5-28 MHz) stations may now radiate 400 watts instead of 200 ...with power output

being measured in peak envelope rather than carrier power.

● No, *the MØRSE call sign you heard during the Morse bicentennial* was not a pirate! This was a special call sign allocated by the British DTI to the RSGB, *Radio Society of Great Britain*. They rotated it around to several clubs.

Did you know that the U.S. Senate passed a resolution honoring **Samuel F.B. Morse** and his partners for their work in developing the Morse code and the first telegraph link between Washington and Baltimore? The resolution was adopted on April 24, 1991, the 200th birthday of Morse.

The Senate credited him with "...the revolutionary early development of electrical communications, and further recognizes Morse's momentous contributions to the economic, social and industrial development of the United States."

● **United Parcel Service**, who has invested a lot of money into the 220-222 MHz spectrum reallocation proceeding, is now arguing before the FCC that it deserves "pioneer's preference" in the allocation of channels between 220 and 222 MHz. They are opposed to the assigning of the new narrow band channels through lotteries.

There were more than 60,000 applications filed for 220-222 MHz channels before the FCC was forced to enact an applications freeze on May 24th. Some 200 applications were filed for nationwide commercial systems alone ...where there are only 60 frequencies available.

● The Northern California Packet Association is hosting this year's **ARRL (Tenth Annual) Computer Networking Conference** to be held September 27-29 at the Radisson Airport Hotel in San Jose, CA. Hams from around the world will

be presenting papers on what they are working on in packet radio. Further information is available from **Glenn Tenney, AA6ER** at Tel. 415/574-3420

● Your new Japanese ham radio might come through Mexico if the United States goes ahead with the planned **U.S.-Mexico Trade Agreement**. President Bush has received Congressional authority to 'fast-track' negotiations. The Asian press is already telling how Japan might set up assembly plants in Mexico with the potential to export unlimited quantities of goods across the border, duty and quota free. Theoretically it can't happen since a 50% 'made-at-home' rule requires domestically made components. Latin American administrations, however, do not have a good record of adhering to government 'guidelines.'

● Apparently all amateurs are not satisfied with the FCC's resolution of the so-called **20 meter "Net Mess" controversy**. At least two letters went forth on the matter last month from the FCC.

The Commission told how they invited the amateur community in December 1989 "...to develop a joint plan addressing the underlying causes of unproductive on-the-air disputes that were taking place on the 20 meter amateur service band" but only two letters were received.

"Both commenters expressed the view that the existing rules are adequate to address any operating violations that may occur and that, if it is to do anything, the Commission should increase the level of its enforcement activities, a function of the Field Operation Bureau."

The FCC says they concluded that "...the dispute is no longer a significant problem and that a potentially restrictive rule making can be avoided at this time."

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• The FCC has again denied requests that amateur stations *transmitting double sideband AM* be allowed a maximum output two to four times greater than the output power allowed stations transmitting any other emission type.

The FCC revised the power measurement standard in 1983 to allow a maximum transmitter power output of 1.5 kW PEP (peak envelope power) instead of "...a power input not exceeding one kilowatt to the plate circuit of the final amplifier stage..." AM fanatics said this represented a severe loss of privileges.

The Commission originally allowed a five year exemption for ham stations transmitting AM and then extended it to June, 1990. On October 24, 1990, the FCC denied two petitions that requested reconsideration of its position on double sideband AM. One was from SPAM, the *Society for the Promotion of Amplitude Modulation*. They said the FCC "...did not consider all the technical evidence it presented in its petition for rulemaking" and "...increased interest in AM since 1983 could not have been anticipated" therefore reconsideration was warranted. The Commission disagreed.

Effective September 9, 1991, Part §97.313(b) is being revised to read: "No station may transmit with a transmitter power exceeding 1.5 kW PEP." All references to AM - shown in §97.313(b) as A3E - are ordered eliminated.

[Memorandum Opinion and Order, Released 7/15/91]

FCC CAPS 20-YEAR PIRATE CAREER

The Commission has denied an application for an International Broadcast Station license submitted by Allen H. Weiner, an ABC Network engineer. The action culminates Weiner's career of offbeat broadcast activities that began in the 1970s and included the *Radio New York International* pirate ship of 1987-88. Weiner is still heard on the shortwave bands on programs broadcast over licensed station WWCR in Knoxville, TN.

As a high school student in Yonkers, New York, Weiner operated unauthorized AM and FM stations known as the "Falling Star Network." After two FCC warnings, Weiner and a colleague were arrested in August 1971 for violation of the *Communications Act*. They pled guilty and received suspended sentences and were placed on probation. The FCC said that this 1971 operation is "emblematic" of Weiner's later actions as an adult.

In 1980, Weiner purchased a legitimate FM station in Presque Isle, Maine, and named it WOZI. The following year he received FCC license for WOZW, a new AM station in Monticello, Maine on 710 kHz. Within three months of receiving FCC approval to begin test broadcasts of WOZW, Weiner also began broadcasting on 1616 kHz, 6.2 MHz and 16.2 MHz -- frequencies for which he held no FCC licenses. The unauthorized broadcasts were identified as "Pirate Radio North" and "KPRC" (the callsign of a Houston AM station) and Weiner identified himself as "Pirate Joe."

In 1984, an engineer from the FCC's Belfast, Maine Monitoring Station, accompanied by a state trooper, tried to gain entrance to WOZW to inspect the station as required by *Part 73*. According to FCC hearing transcripts, Weiner refused to answer their knocks even when the FCC engineer saw Weiner through a window. The engineer returned later and met Weiner but was refused permission to inspect the station.

In a now-famous incident in late 1984, Weiner applied for and received a license for KPF-941, a remote pickup base station for WOZI. Remote pickup stations are not supposed to be used for direct broadcasting to the general public. But Weiner used it on 1622 kHz to, in the FCC's words, "fulfill his youthful dream" of operating a Yonkers radio station.

He apparently continued to broadcast to the public over KPF-941 even after being advised by counsel that Commission rules did not permit such use. The FCC's Mass Media Bureau Chief ordered Weiner to cease operating KPF-941 in violation, which he did temporarily, but he resumed broadcasting over the remote station in 1985.

The FCC ordered Weiner to show cause why the license for his stations WOZW and WOZI, as well as KPF-941, should not be revoked for alleged unauthorized or unlicensed operation. Weiner sold the AM and FM stations instead. He also sought FCC rules waivers to permit broadcasting over KPF-941. The FCC denied this request. The Commission also noted that the transmitter for KPF-941 was not type-accepted for remote pickup use; instead it was a Western Electric 451 A1 broadcast transmitter.

The most colorful chapter in Weiner's broadcast career was yet to unfold, however. In 1986 he purchased a refrigerated fishing vessel, the *Litchfield 1*. He re-named it the *Sarah* and registered it with Honduras. Weiner outfitted the *Sarah* with transmitters on 190 (75 W), 1620 (1 KW) and 6240 kHz (300 W) and 103.1

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MHz (1 KW). None of these transmitters were licensed.

In 1987 he had the ship towed from the Port of Boston to a point about 4.5 miles off Long Beach, N.Y., on Long Island Sound. That summer he operated the stations as *Radio New York International*, garnering instant worldwide attention from listeners, the press, the FCC and the Coast Guard. The Coast Guard and FCC New York engineer Alexander Zimny boarded the vessel and issued verbal and written warnings that the broadcasts were illegal.

According to the FCC, Weiner claimed he ignored the warnings because the Sarah was not in United States waters. (In fact, however, the U.S. is a member of the *International Telecommunication Union*, whose members observe Article 30 of the *International Radio Regulations* which forbid broadcast stations on ships outside national territories. These regulations are incorporated into FCC Rule 2.100.)

Weiner was charged with violating U.S. and international law; if convicted of the charges he faced a maximum jail term of five years and/or a \$250,000 fine. The government decided to defer criminal prosecution of Weiner and a colleague after they agreed not to resume broadcasts. However, Weiner made repairs to the Sarah and stated in an April 1988 Popular Communications magazine article that he intended to resume transmitting.

In September 1988, after moving the Sarah back to its broadcasting site off the coast of Long Island, Weiner registered the ship with the Principality of Sealand. Sealand is a concrete gunnery platform off the British coast. Built in 1942 to defend against German attacks on shipping lanes, Sealand was eventually occupied by a British couple who declared the platform to be a sovereign state. Neither Britain nor the U.S. recognize Sealand's authority to register vessels.

In August of 1988, in response to a temporary restraining order to prevent Weiner from again broadcasting from the Sarah, he agreed not to broadcast from it or any other vessel "under any circumstances until [his] alleged right to broadcast is decided by the Court." He also agreed in writing to use his "best efforts to see that no other persons...broadcast from the Sarah until permitted to do so by the Court."

But after transferring title to the Sarah to a British company, *Radio New York International* returned to the air on 1620 kHz at 1 KW on October 14, 1988. Weiner

was not present on the Sarah, but crew members directed by Weiner operated the station.

When confronted with the fact that the agreement called for Weiner to use his best efforts to see that no other person broadcast from the Sarah, Weiner said (in FCC hearing) "Yeah, the second part, I guess I really didn't read that letter too carefully." A U.S. District Judge signed an order temporarily restraining operation of a station from the Sarah. The order was served on the ship's captain; the transmissions ceased and the ship returned to Boston Harbor.

After abandoning *Radio New York International Inc.* as worthless "without any assets whatsoever," Weiner applied to the FCC for permission to construct an International Broadcast Station. Claiming that he has rehabilitated himself, Weiner gave the FCC character references from his boss and from *Tom Kneitel/K2AES*, editor of Popular Communications. Kneitel wrote that he found Weiner to be "a thoroughly responsible and upstanding member of the community, and a person of excellent character...[who] would be a credit to the broadcasting community and to the Federal Communications Commission."

On July 16, 1991, FCC Administrative Law Judge Joseph Chachkin denied Weiner's shortwave broadcast license application. "The record reveals that Weiner has engaged in deception and falsehoods and has repeatedly and willfully violated Commission Rules and the *Communications Act* when they stand in the way of his immediate goal," the judge wrote. Chachkin described Weiner's testimony as "evasive, non-responsive and lacking any credibility" and said that his claim that he is now reformed is "unreliable and self-serving."

One of the other interesting outcomes of this affair is the establishment by a judge that the FCC has authority not only over broadcasts made from the U.S., but also over broadcasts *received* in the U.S. This information even surprised management of the FCC's Field Operations Bureau.

Although the proceeding may have squelched broadcasting from ships for the time being, it has hardly stopped pirate broadcasting. Just before we went to press, the FCC announced the shut down of "*All American Fourth of July Radio*" in West Chester, Ohio. It was operated on 7404 kHz by *Mark W. Meece/N8ICW*, a Tech Class amateur. Instead of the traditional \$750 fine, Meece was fined \$1,000 under the Commission's new fine authority. Criminal penalties associated with unauthorized transmissions can reach up to \$100,000.