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FCC Releases Congressionally Mandated Study on Amateur Radio

While the FCC noted that radio amateurs provide a valuable service to their communities, it failed to address specific land use restrictions that face amateurs, such as CC&Rs.

In response to a February 2012 Congressional directive, on August 20 the FCC released its findings on Amateur Radio's role in emergency and disaster communications and the impact of private land use regulations on the amateur community's ability to provide such communications. Entitled *Uses and Capabilities of Amateur Radio Service Communications in Emergencies and Disaster Relief: Report to Congress Pursuant to Section 6414 of the Middle Class Tax Relief and Job Creation Act of 2012*, this report contains the FCC's "review of the importance of emergency Amateur Radio Service communications relating to disasters, severe weather and other threats to lives and property in the United States; and recommendations for enhancements in the voluntary deployment of Amateur Radio operators in disaster and emergency communications and disaster relief efforts; and recommendations for improved integration of Amateur Radio operators in the planning and furtherance of initiatives of the federal government." Congress also required "that the study identify impediments to enhanced Amateur Radio Service communications and provide recommendations regarding the removal of such impediments."

"There are many positive things included in the FCC report to Congress," said ARRL Regulatory Information Manager Dan Henderson, N1ND. "We are pleased that the Commission highlighted the existing Amateur Radio infrastructure to provide disaster and time-critical communications. It also recognized the flexibility of the Amateur Service in working with federal, state, local and tribal emergency service agencies to supplement existing communications. The affirmation of the value that Amateur Radio brings to the communities across the country is underscored by the suggestion that 'DHS work with state, local, and tribal authorities so they may develop disaster area access or credentialing policies for trained amateur operators, including a means for documenting their qualifications...'"

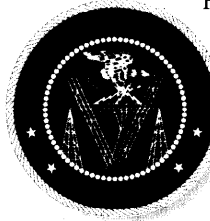
While the FCC did hold Amateur Radio in a positive light in its discussion of emergency Amateur Radio Service communications, the FCC report was not as favorable in the portion of the study that addressed impediments to enhanced Amateur Radio Service communications. In the comments provided to the FCC as it prepared the study, the ARRL — as well as numerous individuals — cited the proliferation of specific land use restrictions, such as deed restrictions and homeowners associations covenants, that prohibit the erection of even modest Amateur Radio antennas.

The ARRL cited that such restrictions now apply to tens of millions of homes and condominiums. In communities across every state, these restrictions make it nearly impossible to find suitable living arrangements that would also allow amateurs to participate effectively in providing support communications. The FCC disagreed with that assessment, stating "...our review of the record does not indicate that amateur operators are unable to find homes that are not subject to such restrictions. Therefore, at this time, we do not see a compelling reason for the Commission to revisit its previous determinations that pre-emption should not be expanded to CC&Rs."

When considering any current rules that serve as impediments to enhanced Amateur Radio Service communications, the report did agree with the ARRL's position, stating that "Commission rules that may be an impediment to enhanced Amateur Service emergency communications can, as the ARRL notes, be considered through the Commission's rule-making process. Consequently, we do not believe that Congressional action is necessary to address any of these issues."

In the report, the FCC recommended that "DHS consult with the public safety, emergency management and Amateur Radio emergency communications associations and groups to identify training opportunities that

will support better utilization of Amateur Radio operators for emergency communications, and to solicit views on how Amateur Radio capabilities could be further incorporated into response plans or initiatives. We also recommend that the OEC [Office of Emergency Communications] include these recommendations in the NECP [National Emergency Communications Plan]."



Henderson noted that it is significant that the FCC recommends efforts be continued by DHS to facilitate the training and utilization of Amateur Radio across the emergency and disaster response spectrum — from the public sector through to the various groups and organizations that provide support communications via the Amateur Service, including ARES, RACES, MARS or locally organized support groups: "When served agencies and amateur groups plan and train cooperatively, it only enhances our abilities to serve our communities and the public."

With the delivery of the FCC's report to Congress, the ARRL will determine its next step in its efforts to find relief for amateurs who live under unduly restrictive private land use regulations. "Our review of the FCC report shows that there is a lot to be done if amateurs living in deed-restricted properties are to receive even the limited relief amateurs enjoy under the Commission's PRB-1 ruling or the limited relief given to deed-restricted properties given by the FCC's OTARD ruling," Henderson said. "This means continuing the ARRL's efforts on Capitol Hill and continuing to seek a Congressional directive to the Commission to extend those limited preemptions to include prohibition of effective Amateur Radio antennas and support structures that are imposed by private land use restrictions. The FCC report to Congress is not the final action in this fight; it merely lays the groundwork for the next steps to be taken by the ARRL."