



Legislative Update – Issue # 4 March 30, 2011

ARRL - 225 Main Street – Newington, CT 06111

Edited by Dan Henderson, N1ND, ARRL Regulatory Information Manager

FCC Directed to Study Amateur Radio Tower Restrictions

The Amateur Radio community and ARRL took notice when President Obama signed the *Middle Class Tax Relief and Job Creation Act of 2012* into law on February 22. Included in that Act were the provisions that the ARRL has championed the past few years to have a study undertaken to assess how private land use regulations impact how the Amateur Service interfaces and supports emergency and disaster communications. These provisions, contained in Section 6414 of the Act, achieve what the ARRL had been proposing and incorporated H.R. 81 and S. 191 that the League had been supporting in the current Congress.

“The next six-months will be busy and important in this arena,” says ARRL Regulatory Information Manager Dan Henderson, N1ND. “The passage of the act into law started a 180-day clock for the FCC to conduct their study and report the findings back to Congress. We expect the FCC to issue a public notice and open a forty-five day comment period for the public by the end of March. The public comments will be part of the record on which the FCC bases its report. ARRL members are encouraged to make thoughtful, direct and concise comments to the FCC once that process opens.”

The act directs that the FCC evaluate how to enhance Amateur Radio’s role in working with emergency and disaster relief agencies. It also directs that the Commission identify “impediments to enhanced Amateur Radio Service communications, such as the effects of unreasonable or unnecessary private land use restrictions on residential antenna installations” and to make “recommendations regarding the removal of such impediments.” It is important to note that this act does not overturn existing private land use regulations, commonly known as covenants, conditions and restrictions (CC&Rs).

The ARRL leadership has discussing its plan of action, focusing on how to provide the most accurate and best information to the Commission for its consideration. They are also discussing the best approach on how to mobilize the ARRL membership, so OUR voices will be heard on this topic. You will find a specific call to action in this newsletter. Please help by taking the actions requested.

Time is of the essence on this topic! The legislation requires the FCC to report its findings back to Congress within 180-days. The window for public comments to the FCC will only be open for 45-days. When asked to provide your input, please do so quickly.

If you had previously written your US Congress person or Senator asking them to support either H.R. 81 or S. 191, now is the time to follow up that request with a letter of thanks. Showing our appreciation now may help keep the door open the next time Amateur Radio needs their support!



ARRL Needs Your Assistance to Gather Information on How CC&Rs and Deed Restrictions Impact You!

In February 2012, as part of Public Law No. 112-96, Congress directed the FCC to undertake a study, with a report of the findings to the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation. This study would “use the expertise of stakeholder entities and organizations” to recommend how to best use radio amateurs in emergency communications and disaster relief efforts, and how to best utilize the Amateur Radio Service in coordination with the federal government in these efforts. In addition, the study would also discuss the effects of unreasonable or unnecessary private land use restrictions on residential antenna installations and recommend ways to remove such impediments. This is the study championed by the ARRL for several years and was known as the "Amateur Radio Emergency Communications Enhancement Act". This act was introduced into the 112th Congress as H.R. 81 and S. 191.

Under the provision of the act, the FCC has 180-days to prepare their report commencing with the signing of the statute into law. We are now in that period. As part of their study, the FCC has solicited public comment in a Public Notice DA12-523 on two specific areas related to the study. There is a 45-day deadline for public comments on the public notice. The FCC must receive all comments no later than May 17, 2012.

As the national organization for Amateur Radio, and as a principle proponent of this study, the ARRL has issued a call for all Amateurs - whether ARRL members or not - to submit their comments and assist. To facilitate information gathering, the ARRL has set up a website to allow members to submit pertinent information for inclusion with the ARRL comments at www.arrl.org/ccr-study-information

The ARRL will present a detailed summary of anecdotal examples of the effect of CC&Rs and homeowner's association rules on Amateur Radio emergency communications. What we need from you are the actual, personal experiences of a geographically diverse group of radio amateurs who are subject to CC&Rs or other private land use restrictions where they live; who can tell us very specifically of the adverse effect of those restrictions on their ability to prepare for and to provide emergency and disaster relief communications.

Most importantly, Amateurs need to explain why they did not have an option when it came to purchasing real property. Was your decision based on the pervasiveness of private land use restrictions of properties you were considering? Did these restrictions preclude or unreasonably restrict the installation and maintenance of outdoor Amateur Radio antennas? Did they subject the radio amateur to the unlimited discretion of a homeowners' association, architectural control committee or other non-government decision maker requiring their permission in order to erect and maintain an effective antenna? Is your full participation in EmCom affected by these land use restrictions?

We need fact-based information, including the text of any CC&Rs to which amateurs are subject. We need to know about your efforts to find non-restricted places to live in their metropolitan areas. We need to know about the denial of approvals by HOA boards. You should mention specifically the effect of their restrictions on your ability to do and prepare for emergency communications. We need as much specificity as you can provide. We need your contact information in order to follow up if necessary (by telephone or e-mail.)



The website has links to web pages that allow Amateurs to provide their information easily on-line. The first form addresses the role that Amateur Radio has played in providing Emergency and Disaster Relief communications. If you have participated in an EmCom event or deployment since January 1, 2000, we ask you to provide specific information on the activation.

The second form provides for the collection of information on how private land use restrictions – such as property conditions, homeowner association covenants, and deed restrictions – have impeded the ability of licensees to full participate in emergency and disaster relief operations. It also allows you to provide details of how the CC&R has affected your participation in EmCom. It also provides the ability to upload a more detailed explanation of your situation, as well as providing copies of your actual CC&Rs or deed restrictions.

It is important to remember that CC&Rs are not the same as city and town zoning and building ordinances. The FCC already has extended a limited preemption to city and town ordinances thru PRB-1. This study also does not cover restrictions imposed on leased property, such as lease restrictions for apartment dwellers.

What this study specifically focus on are restrictions imposed on your ability to erect antennas and support structures that are imposed by private groups, such as your neighborhood sub-development Home Owners Association or Architectural Standards Committee.

In order to gather as much accurate data as possible, please keep your comments confined to your direct knowledge and participation in events. It is not helpful to have exaggerated claims or second-hand information such as “well a couple of towns over I heard they had an ARES net because of a flash flood.” Our goal is to present as forceful, fact-based record as possible.

It is important that when reporting CC&Rs that have affected you that you provide a copy of the pertinent portion of the covenant for inclusion in the report. If you can scan it or have a digital copy of the CC&R, you may email it to CCRINFO@arrl.org If you need to send a hard copy, it may be sent: CCR Information Study, ARRL, 225 Main St., Newington CT 06111.

TIME IS OF THE ESSENCE. Because of the short window by the FCC for comments, and the short deadline for the final report back to Congress, the ARRL must have your input by **MONDAY APRIL 30, 2012**. This allows us time to compile the results into a useful and manageable presentation for the Commission.

If you have any questions, contact Dan Henderson, N1ND, ARRL Regulatory Information Manager at (860) 594-0236 or at dhenderson@arrl.org



A Message from ARRL President Kay Craigie, N3KN

The ARRL's major legislative goal for this session of Congress has been realized!

Would I have liked to see our stand-alone bills about Amateur Radio passed by Congress and signed into law by the President of the United States? You bet! Realistically, however, the climate in Washington today is so harsh that getting our study approved as part of other legislation is a significant victory.

Your help is now needed to ensure that the study furthers the ARRL's long-time fight to eliminate land use restrictions that prevent so many American Amateurs from having antennas. Please respond to the call in this newsletter, if you can give us information that bolsters the effort.

The same legislation that brought about the study also wrote "The End" to the story of H.R. 607's threat to our access to 420-440 MHz. The legislation reallocated the so-called D Block of spectrum, but did not include the reduction in Amateur Radio spectrum privileges proposed in H.R. 607.

The League will continue to work on other legislative goals at the federal level. In addition, at the state and local levels, vigilance is needed to make sure that legislation and ordinances affecting Amateur Radio do not hinder our ability to fulfill the purposes set forth for our radio service in Part 97. The ARRL Section Field Organization has appointments available for members with an interest in state and local government affairs. Please contact your Section Manager using the contact information on page 16 of QST to find out if one of these appointments is interesting to you.

As concerned citizens and active advocates for Amateur Radio, you can be sure that your volunteer efforts are essential and sincerely appreciated by the ARRL Headquarters Staff and the Board of Directors.

73,

Kay Craigie

Kay Craigie, N3KN