

September 2017 Newsletter

Big Island Amateur Radio Club

It's madness! Sheer Grid Madness

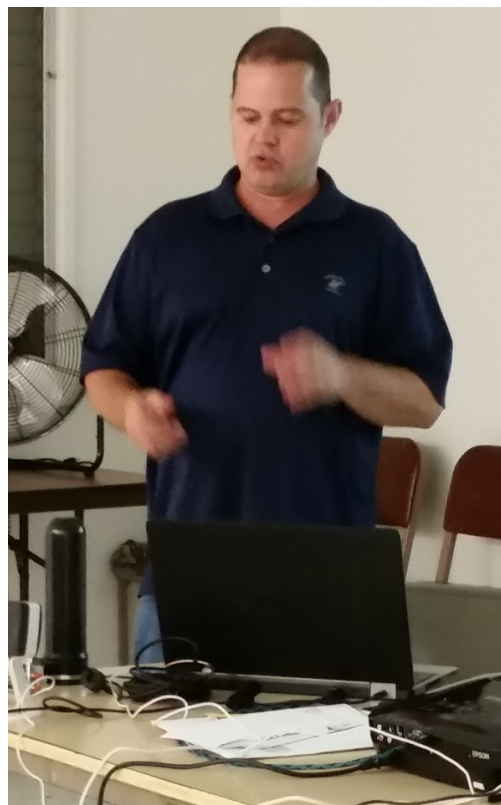
Aulani Hui Amateur Repeater Club and event organizers invite all Hawaii hams to join them for the Fourth Annual Hawaiian Islands Grid Madness. It's Sunday, September 17, from 1300 to 1700 HST.

"If you can, please help to make this event better -- spread the word via radio nets, meetings, newsletters, web sites, or just tell another ham," said spokesman Stan Froseth, AH6KO. On the radio, you can provide the URL, <http://gridmadness.blogspot.com/>, or just say "Google Grid Madness".

The event provides "get on the air" time for new hams; emergency communications practice for responder groups (ARES, CERT, etc.); and a fun activity for everyone.

"See who you can contact in your area or across the water," said Stan. "Please consider using this event as part of your effort to mentor new hams, teach and practice EmComm

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Scanners, scanning and SDRs were the program focus at the BIARC Aug. 12 meeting at Keaau Community Center.

Photos by Linda Quarberg, WH6LQ

President answers burning question: 'Why would you use a PC as a radio?'

President Gary Schwiter conducted the August meeting program, "Hands-on Software Defined Radio," focusing on scanning -- from the vintage crystal scanner to the next cheap SDR.

He showed and demonstrated some of the hardware he uses and examples of the software.

He said he had been getting a lot of questions on

Continued on next page

procedures, or as an on-the-air social event.”
New to Grid Madness this year:

- Increased power limit in the HT class (to 8 Watts)

- Focus on the Club competition -- assign your score to your club, or establish a team.

- Focus on Kauai, Molokai and Maui.
Please spread the word!

A new spreadsheet logging tool is available for Grid Madness. Fast, easy and accurate. Download and get more information at the online Grid Madness Logger.

Stan is serving as the event manager, with Eric, KH6CQ, of the Aulani Hui ARC.

“Hawaiian Islands Grid Madness, an event for all hams in the State of Hawaii. This event is designed for FUN, and to test your equipment, coverage and operating skills using simplex FM on 2 meters and 70 cm,” said Stan. “The idea is to contact as many stations as you can in as many Grid Squares as you can, using SIMPLEX ONLY.”

Check the website for a summary of last year's event, and info about assigning your score to a club. Please send comments and questions to AH6KO@arrl.net.



John Bush offers a recap on digital modes, following up on a recent talk.

From Page 1

scanners, scanning and SDRs, so the training would be timely.

Gary gave some down-to-earth examples of "Why?" anyone ever would want to use a PC for a radio. And he discussed the GUI, or Graphical User Interface.

He offered a demo on P25 Phase 2 TDMA scanners and an overview on how they work.

John Bush offered a recap on digital modes, following up on a recent BIARC meeting talk. In the interim, he did a presentation to a ham group in Chico, California, called: "Where will you be in the Year 2020, hamming or knitting?"

His Chico friends "seemed to find it interesting," and there is a push toward the new concept. He shared digital stories from the Big Island, "disseminating what we're doing here out to a broader ham population."

Gary appointed a nominating committee for next year's club leadership. Chair Bob Schneider will be assisted by John Bush and Gus Treewater.

The next Technician Licensing Class will be held at the Keaau Community Center, starting on Nov. 2. Contact Doug Wilson at 985-9362 to sign up.



Neapolitan ice cream and crispy brownie bites and other goodies were on the menu.



Could pending parity law backfire against hams?

Because of wording, attorney advises: 'Just Say No to H.R. 555/S.1534'

(Editor's note: The author is an attorney and Life Member of ARRL, a veteran of legal battles on behalf of hams fighting to install antennas, and a member of the ARRL Diamond Club.)

By Fred Hopengarten, Esq., K1VR

I've been receiving a lot of inquiries lately that ask for my position on the Amateur Radio Parity Act, passed by the House as H.R. 555, and now before the Senate as S. 1534.

I'm against it.

Why do I oppose H.R. 555/S. 1534?

I like the ARRL.

Before delving into the bill, you should know that I'm a big fan of the ARRL, and this is not an attack on the League. I've been an ARRL member continuously since 1956 (that's 61 years, if you were a communications major), and I've been a Life Member since 1972. I donate money, and I'm a member of the ARRL Diamond Club.

I'm only attacking the proposed legislation. Why? A 440 MHz whip may be all you get. A homeowner association (HOA) could limit a ham to a 440 MHz outdoor whip.

The bill says that an HOA cannot "preclude communications" and must permit "an effective outdoor antenna under exclusive use or control of the licenses." A 440 MHz whip satisfies both of those conditions.

The ARRL FAQ on this subject says: "The entitlement to operate on all amateur bands or to maintain antennas that are effective on all amateur bands at

the same time is far beyond the scope of either PRB-1 or ARPA.

"However, in the original PRB-1 Order, the FCC wrote: Some amateur antenna configurations require more substantial installations than others if they are to provide the amateur operator with the communications that he/she desires to engage in.

For example, an antenna array for International amateur communications will differ from an antenna used to contact other amateur operators at shorter distances. . . . local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to accommodate reasonably amateur communications, and [FH: not "or"] to represent the minimum practicable regulation to accomplish the local authority's legitimate purpose. PRB-1 at ¶ 25 (1985).

The ARRL FAQ continues: "That said, an amateur's expectation for the types of effective outdoor antenna that the HOA will be obligated to permit differs depending on the type of land use involved."

I find no basis for that statement in HR 555, which says, as cited above, that an HOA cannot "preclude communications" and must permit "an effective outdoor antenna under exclusive use or

ARRL posts Amateur Radio Parity Act FAQs

The Amateur Radio Parity Act of 2017 is now in the US Senate (S. 1534). ARRL has developed and posted a list of frequently asked questions (FAQs), "The Amateur Radio Parity Act: Setting the Record Straight," to explain and to clarify what the passage of the legislation would accomplish -- as well as what it would not.

"There has been so much misinformation floating around on forums, blogs, podcasts, etc. regarding the Amateur Radio Parity Act, that we realized a listing of facts as to what the bill is and what it does was long overdue," said ARRL Hudson Division Director Mike Lisenco, N2YBB, who chairs the ARRL Board's ad hoc Legislative Advocacy Committee.

ARRL General Counsel Chris Imlay, W3KD, prepared the FAQ on behalf of the Board of Directors and its ad hoc Legislative Advocacy Committee.

"We trust that this will address any concerns

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K1VR's analysis

control of the licenses, " OR (not "and") the HOA must have "the minimum practicable restriction."

I read this to mean that the "minimum practicable restriction" is not required, if (a) the HOA does not preclude communications, (b) the outdoor antenna permitted is "effective" [perhaps on 440 MHz], and (c) the place the antenna will sit is under the exclusive use or control of the licensee.

The "OR" clause is dangerous. S. 1534 says that an HOA cannot preclude communications and must permit an effective outdoor antenna, OR the HOA must have "the minimum practicable restriction."

Despite the expressed intent to write a bill that would create parity between hams governed by municipal zoning, and hams governed by an HOA, this bill is really different from PRB-1 (47 CFR § 97.15(b)).

If the HOA allows a 440 MHz whip to stick out of your window, the HOA is not required to have "the minimum practicable restriction."

That's the meaning of the "or" clause.

In contrast, PRB-1 requires of municipalities that they must not preclude the amateur service communications that the radio ham desires (see above), AND the regulation must be the "minimum practicable regulation."

The aesthetics clause could be an antenna killer. Under S. 1534, an HOA may establish reasonable written rules concerning height, location, size, aesthetic impact, and installation requirements. I fear that an HOA, and later a court, could decide that any visible antenna has a negative aesthetic impact, if the HOA says so.

The bill provides no guidance or standards, no mediation, no arbitration. Installation requirements could be an antenna killer.

The HOA could establish an installation requirement that, for example, requires a Professional Engineer to stamp the plans (the plans for a 15 meter dipole? Or a 40 meter wire vertical hung over a tree in the nearby woods?), inspect the construction, and stamp the "as-built" drawings.

P.E. costs could be a big multiple of antenna costs. The HOA could require \$5 million/\$10 million

ARRL FAQs

you may have had about the legislation," Lisenco said. "Let's buckle down and get this bill passed. We can only do this with your help."

Senators Roger Wicker (R-MS) and Richard Blumenthal (D-CT) co-sponsored S. 1534, which was introduced in the US Senate on July 12, marking another step forward for this landmark legislation. The measure will, for the first time, guarantee all radio amateurs living in deed-restricted communities governed by a homeowner's association (HOA) or subject to any private land-use regulations, the right to erect and maintain effective outdoor antennas at their homes. Senate bill S. 1534 is identical to House bill H.R. 555, which passed in January.

In a message to ARRL members, ARRL President Rick Roderick, K5UR, thanked all who have written their Senators in support of S. 1534. "If you have not done so, please do," Roderick said, referring to the bill's Rally Congress page.

ARRL Radio Parity Act FAQs 08/07/2017

ARRL has been diligently working toward passage of the Amateur Radio Parity Act (ARPA) for the past 3 and a half years. Our view is that this legislation is, in its current form, extremely beneficial and necessary — right now — for many thousands of radio amateurs, and for future generations of hams. The future of Amateur Radio is indeed dim without it. Now, 90 percent of new housing starts in the United States are subject to private land-use restrictions. Virtually all of these have provisions that either prohibit outdoor Amateur Radio antennas outright, or else subject amateurs to the unlimited discretion of Homeowners' Associations (HOAs) which can, and almost always do, reject requests for outdoor antennas (except over the air video delivery

K1VR's analysis

liability insurance coverage, naming the HOA as an additional insured.

I'll bet HOAs will be creative in establishing very expensive-to-implement installation requirements. Prior approval may be impossible.

What if your HOA was formed only for the purposes of plowing the roads and picking up the trash? It could be ultra vires (outside the power of the HOA) to approve an antenna.

What if the HOA never votes, either yes or no? But isn't a community association required "to establish reasonable written rules concerning height, location, size, and aesthetic impact of, and installation requirements for, outdoor antennas and support structures for the purpose of conducting communications in the amateur radio services." See § 3(b)(3)?

Response: No.

Under this bill, the FCC shall permit a Community Association to establish reasonable rules, but the Association is not required to establish such rules (see the "or" clause). On the other hand, with or without the FCC, the Association could always amend its rules, even before the passage of HR 555 – so this is no change in the law at all, and certainly no new advantage to hams.

There is no requirement that the HOA must act in a timely way. There is not even a requirement that the HOA must decide. But the ham must still obtain prior approval.

The ARRL FAQ says: "There is no indication that an HOA has ever simply failed to adjudicate an antenna proposal and no indication that a timetable is necessary."

Ever?

It is a complicated case, but AA9BZ has been waiting since 2011 for a final decision on the installation of his flagpole for a stand-alone house at Belmont Country Club, a Toll Brothers community in Ashburn, VA. See <http://lovemyflag.org>. I represented AA9BZ.

What if the association is moribund and hasn't met or taken any action in years? What if there are no HOA officers or Architectural Review Committee to even ask for prior approval?

ARRL FAQs

antennas, which they can't prohibit any longer due to Congressional action in 1996).

When FCC enacted its PRB-1 policy in 1985 for municipal land-use regulation of amateur antennas, it refused to apply the "no prohibition, reasonable accommodation, least practicable restriction" requirements of that policy to private land-use regulations. That was a mistake by FCC then, and ARRL has been working toward fixing it ever since. We now have a chance to do that.

But placing Federal restrictions on private land-use regulations is not an easy task. Covenants and deed restrictions — or CC&Rs, as they are commonly referred to — have been found enforceable for centuries because they are restrictions placed on the land itself, and bind all subsequent owners of that land. While the FCC does have the jurisdiction to limit covenants where they conflict with Federal telecommunications policy, that jurisdiction is exercised very seldom. The ARPA is necessary in order to cause FCC to exercise that jurisdiction.

The ARPA, in the form passed by the House last session (H.R. 1301) and passed again in January of this year without dissent (H.R. 555), and which is now before the Senate (S.1534) is actually far better than the rather vague provisions of PRB-1, which necessitated a good deal of litigation since 1985. The Parity Act would literally guarantee every single radio amateur who lives in a deed-restricted community the right to erect and maintain an "effective outdoor antenna on property under the exclusive use or control of the licensee," regardless of what the covenants say. That is an exceptional benefit to the many thousands of hams living in deed-restricted communities.

Some self-appointed "experts" on this subject have recently suggested that the legislation is flawed for various reasons. It is time to set the record straight. Here are a few myths about ARPA, debunked.

Q. Deed restrictions are agreed to by hams

K1VR's analysis

There is no requirement for negotiation, no requirement for a written decision stating the reasons for denial (so that a ham might modify the application with a greater likelihood of success the second time around).

The ARRL FAQ argues that limited CC&Rs (common covenants and restraints), perhaps situations where the HOA exists only to deal with roads and trash, are “few and far between.”

I know of no basis for that statement, and I am presently representing a radio ham who has an HOA that does only roads.

My experiences belie the “few and far between” statement.

Hams who are scared of the prior approval requirement have reached out to me, because approval was never previously required (or the thought even mentioned in their documents), and they were breaking no CC&R.

The FAQ goes on to state: “If a radio Amateur who lives in a deed-restricted community where the CC&Rs do not empower an HOA to regulate antennas chooses to not avail himself or herself of the provisions of the FCC rules enacted pursuant to ARPA, there is no obligation to do that.”

I think that sentence says: If the HOA has no power to regulate antennas, and there is no CC&R on the subject, you don't have to obtain “prior approval,” you may disobey this federal statute.

That's just wrong.

The bill reads: [T]he Commission shall – . . . require any licensee in an amateur radio service to notify and obtain prior approval from a community association concerning installation of an outdoor antenna . . .

The FAQ then assures readers that “No FCC enforcement agent is going to sanction a ham [for failure to obtain prior approval].” While encouraging law-breaking is not a good idea, I am less concerned about FCC enforcement than I am about the fact that every CC&R I've ever read allows any covered homeowner to seek enforcement, and that this law would effectively add “prior approval” (under the “obey all laws”

ARRL FAQs

when they buy property regulated by an HOA. Why shouldn't hams be required to abide by the agreements they voluntarily entered into?

A. There are several answers to this. (1) Courts have held that covenants are subject to being limited or even invalidated where they conflict with Federal telecommunications policy. (2) In many instances, one can't know whether an HOA will or will not allow an antenna in advance of buying the property and applying for one, so they haven't agreed to forego Amateur Radio just by buying land. (3) Often, hams have no choice where to buy property due to family, job, and school locations. Many become licensed after already purchasing property in a deed-restricted community. The proliferation of covenants limits their options and precludes the use of their FCC licenses.

Q. ARPA gives HOAs the right to use aesthetics as a basis for antenna decisions, even where HOA rules do not now have any provisions concerning antennas. Doesn't this give HOAs an entitlement that they don't now have?

A. No. Deed restrictions are based solely on aesthetics. The reason they are required by lenders for land use developers is that the lender wants to make sure that the aesthetics of the neighborhood don't change until the developer sells all the lots in the subdivision and pays the lender back. HOAs have always been able to regulate aesthetic impact of land uses; it is not something conferred by ARPA. ARPA is simply stating the situation as it is now and has always been. FCC has held that private land-use regulations are entitled to less deference than zoning regulations because covenants address aesthetic concerns while zoning addresses both safety and aesthetics. There are very, very few declarations of covenants that do not include antenna regulations. Now, and going forward, virtually all do, because lenders require them.

Q. ARPA requires a deed-restricted amateur

K1VR's analysis

clause) to the CC&Rs, and create a good reason to fear any neighbor on a mission.

The OTARD rule does not require prior approval. If you want to erect a one meter dish, or a VHF/UHF TV Yagi, under 47 CFR §1.4000 (Over The Air Reception Devices), the Association must petition the FCC to prevent it. Here, the burden is on the ham to get prior approval.

Hams won't be in parity with TV watchers. The "exclusive use or control" clause may be an antenna killer.

Want to put an antenna outdoors on your roof? Is it under your exclusive use or control? And the same may be true of your deck, porch, or lanai.

If you live in a town house with a back yard (the place where your grill is located), do you have exclusive use or control when the association mows your lawn?

If you live in an apartment-style building (a multi-unit dwelling), you may have no outdoor area under your "exclusive use or control."

These questions can be very tricky, and result in litigation. See *In the Matter of James S. Bannister*, FCC DA 09-1673 (2009), https://apps.fcc.gov/edocs_public/attachmatch/DA-09-1673A1.pdf (an OTARD case that gives me some hope, because a broadcast TV antenna and broadband internet antenna was allowed on a roof, where the association claimed that roofs are common areas, but the FCC ruled that the association's easement for roof maintenance "did not defeat the owner's rights under the Rule.")

The bill doesn't help with non-HOA deed restrictions.

In a non-HOA situation where there is a deed restriction against outdoor antennas, that deed restriction would be invalid as to one-meter satellite TV dishes, and TV broadcast service Yagis, because the OTARD rule is a preemption. But this bill won't help hams with just deed restrictions (no HOA—no common expenses). The deed restriction can be enforced by any disgruntled owner covered by

ARRL FAQs

to notify and seek prior approval from an HOA before installing any outdoor antenna, with no grandfathering of those already installed. Why?

A. Because HOA rules and covenants almost exclusively provide for prior approval of structures anyway. In the zoning context, antenna approvals are always based on a building permit application. The situation with accessory structures is no different in the HOA context. HOAs have a legitimate interest in the aesthetic impact of antenna installations, and while they have to allow an amateur an effective outdoor antenna under ARPA, that entitlement is not unlimited. As to grandfathering, there is no backward application of ARPA proposed. If one already has an approved antenna in a deed-restricted community, nothing else is required. If one has a non-approved antenna that violates the covenants, the amateur can choose to continue with that, or to avail himself or herself of the entitlement to be provided by the FCC rules enacted pursuant to ARPA to legitimize the antenna.

Q. ARPA does not require a time limit on HOAs for approval or disapproval of a particular antenna proposal. Couldn't an HOA stall indefinitely without any adverse consequence?

A. No, although the question reflects a misunderstanding of the proper role of legislation. There is no indication that an HOA has ever simply failed to adjudicate an antenna proposal and no indication that a timetable is necessary. Even if that was a real issue, not all details of implementation of ARPA should be specified in the legislation. ARPA merely calls on FCC to implement the policy within a fixed time frame. FCC has to do rulemaking to do that. The details of the implementation are for FCC to address. However, even if FCC didn't do that, and the rules implementing ARPA were adopted without imposing a time limit on HOAs, an indefinite stall would violate the entitlement to an effective outdoor antenna and the amateur could enforce the entitlement in court.

K1VR's analysis

the same deed restriction.

You may violate federal law!

Without this bill, erecting an outdoor antenna in an HOA situation creates a contract dispute. When you go to renew your license, the question before the FCC would be: Does the applicant's misconduct suggest that he or she lacks the requisite character qualifications to remain a licensee. "In evaluating the weight of prior misconduct, to be considered are the willfulness of the misconduct, the frequency of such misbehavior, its currency, the seriousness of the misconduct, efforts made to remedy the wrong, and [the applicant's] record of compliance with Commission rules and rehabilitation."

1 Does this activity show a propensity to obey the law and to deal honestly with the Commission?

With this bill, and without a prior approval, you break a federal law, and, in appropriate circumstances, the Commission may decide to revoke (47 U.S.C. §312) or not to renew (47 U.S.C. § 309(k)) your license.

Think about this: a CB'er who puts up an 11-meter beam may violate a CC&R, but he's not breaking federal law. If this law passes, you'll be worse off than a CB'er.

The bill has no enforcement mechanism.

Where in the bill does it say what a ham can do to enforce this new law?

In OTARD and cellular telephone matters, the remedy for zoning conflicts is spelled out in the statute or regulations. But here, can you go straight to federal court? I don't know.

Probably not in the Third Circuit.

See *DePolo v. Bd. Of Sup'rs TredyffrinTwp.*, 835 F. 3d 381 (3d Cir. 2016). And, in light of *Armstrong v. Exceptional Child Center, Inc.*, 135 S.Ct. 1378 (2015), a 5-4 decision, there may be no implied private right of action anywhere for injunctive relief to enforce against an HOA. I don't believe that the problems can be cleared up in the report or in conference.

A committee report is not law. When there are differences between the House and Senate bills, the conference committee can do wonders. Here, the bills are identical.

ARRL FAQs

Q. Why does ARPA not guarantee an amateur the right to operate on the band(s) of his or her choice?

A. This argument is a bit hard to understand. FCC licenses entitle a radio amateur to operate on a wide variety of amateur allocations. The entitlement to operate on all amateur bands or to maintain antennas that are effective on all amateur bands at the same time is far beyond the scope of either PRB-1 or ARPA. There is a very definite limit to what is achievable in any legislative limitation on private land-use regulation. It simply is an unreasonable expectation that any legislation will invalidate covenants completely and allow a radio amateur to erect whatever he or she wishes to install. That said, an amateur's expectation for the types of effective outdoor antenna that the HOA will be obligated to permit differs depending on the type of land use involved. In a condominium, perhaps a whip antenna on a balcony is the best that can be accommodated. On a 10-acre, single family lot in a deed-restricted, wooded subdivision, a far more elaborate antenna and support structure should be expected. The specification of the need to operate on multiple bands throughout the radio spectrum is not a matter that is properly included in legislative language. It will have to be addressed in FCC rulemaking or in report language accompanying the legislation.

Q. I have heard a lawyer mention CC&Rs that empower HOAs only to maintain roads, utilities, or landscaping, with no power to regulate antennas. If ARPA passes, wouldn't that HOA be able to demand that an amateur seek its approval to install amateur antennas?

Why create Federal approval obligations where they don't now exist under the covenants?

A. There are several answers to this: (1) Those limited CC&Rs are few and far between. The normal provision of CC&Rs and virtually all new ones now include prohibitions on, or complete control by the HOA of antennas.

K1VR's analysis

What is there to conference on?

1 In the Matter of Kevin David Mitnick [N6NHG],
WT Docket No. 01-344, FCC 02D-02, Sippel,
A.L.J., December 23, 2002.
https://apps.fcc.gov/edocs_public/attachmatch/FCC-02D-02A1.pdf

I have doubts that FCC regulations implementing the law will cure the problems with the bill.

As the FAQ says: "The FCC is not given much leeway in implementing ARPA's basic provisions, which are specifically stated in the House and Senate Bills."

Since the 1985 creation of PRB-1 (thank you, ARRL—we owe ya), the FCC has been unwilling to help out HOA dwellers.

When the Commission writes its regulations, I'm betting that they won't go a word beyond what the statute says.

You may now have two levels of approval.

If you should be lucky enough to obtain a prior approval from the HOA, you'll still need a building permit from your municipality, and perhaps zoning approval too. Your opponents may enjoy two bites at the apple.

Conclusion: These are short explanations. I could create a law review version, in excruciating detail, with many footnotes. But now you know why I don't think you should urge your U.S. senator to vote aye on S. 1534.

Moreover, I think you should voice your opinion to your Director and Vice Director. Find them at <http://www.arrl.org/divisions>.

I do not support this bill, and neither should you.

A Word on Making Legislation.

It is hard. And we should not be hard on the individuals who worked on this very difficult topic.

But the ARRL FAQ says: "Those who think that there is a better solution, let's hear about it."

So here are some suggested solutions:

- Where no reasonable standards are adopted by an HOA, FCC regulations should include a default standard.

- I suggest a step-ladder approach for HOA communities, with different antenna rules for apartment-like ownership, common-wall townhomes, stand-alone home on lots one-acre or

ARRL FAQs

Worrying about HOAs without antenna jurisdiction is the tail

wagging the dog. (2) If a radio amateur who lives in a deed-restricted community where the CC&Rs do not empower an HOA to regulate antennas chooses to not avail himself or herself of the provisions of the FCC rules enacted pursuant to ARPA, there is no obligation to do that. Nor would the FCC rule create any new jurisdiction that is not conferred on the HOA by the declaration of covenants, from where the HOA derives its authority. No FCC enforcement agent is going to sanction a ham because he or she didn't contact their HOA before putting up an antenna.

Q. Because the preamble to the legislation distinguishes ARPA from PRB-1, would the court decisions applying PRB-1 apply to the FCC rules adopted pursuant to ARPA?

A. That is not entirely clear. There are similarities between PRB-1 and ARPA, in that ARPA would preempt the application to hams of covenants which, on their face or as applied, preclude communications in the Amateur Radio or Amateur Satellite Services and where the covenants do not "constitute the minimum practicable restriction on such communications to accomplish the lawful purposes" of an HOA (which are aesthetics). Where ARPA is actually better for hams than PRB-1 is that ARPA includes a specific guarantee of an "effective outdoor antenna" for every ham in a deed-restricted community. PRB-1 only mentioned "reasonable accommodation," and that has been interpreted in different ways by different courts. If there is litigation about ARPA, some of the PRB-1 case law will be instructive at least.

Q. Why should we rely on the FCC to enact provisions favorable to hams in implementing ARPA, given that the FCC has not been helpful in addressing the preclusive effects of private land-use regulations for more than 35 years? Won't the HOAs show

K1VR's analysis

less, and stand-alone homes on large properties. There should be different rules for townhomes, as opposed to homes on 10+ acres.

- I suggest that there should be some “safe-harbor” provisions, or at least a requirement that the FCC establish “safe-harbor” provisions: antennas similar or identical in appearance to OTARD satellite dishes, VHF/UHF TV Broadcast Service Yagis, broadband internet antennas; single wires (or “minimally visible” antennas); flagpoles; temporary antennas (or antennas raised only in hours of darkness), Buddipoles or ground planes no higher than 12 feet (the height of a basketball net with backboard). And why not flagpoles? See “The Freedom to Display the American Flag Act of 2005,” 4 U.S.C. § 7.

Section 3 of that statute reads: RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES." A condominium association, cooperative association, or residential real estate management association may not adopt or enforce any policy, or enter into any agreement, that would restrict or prevent a member of the association from displaying the flag of the United States on residential property within the association with respect to which such member has a separate ownership interest or a right to exclusive possession or use.

- To avoid complications like the Armstrong case mentioned above, the bill should spell out an enforcement mechanism, just as the original bill which resulted in the OTARD rule does.

- Change “or” to “and” (see above).

P.S. I'd like to know which ARRL directors voted against supporting this bill, so I can contribute to their next election campaign, but apparently the ARRL Board now has some sort of loyalty restriction that prevents an officer or director from telling you if he or she voted no.

But that's another topic.

While I am neither a director nor vice director, I wonder if the ARRL will attempt to punish me for publishing this opinion.

ARRL FAQs

up during the rulemaking and attempt to restrict hams' entitlements?

A. The FCC is not given much leeway in implementing ARPA's basic provisions, which are specifically stated in the House and Senate Bills. In any event, Congress can be very instructive in the report language accompanying the legislation when it passes. FCC Chairman Ajit Pai has publicly praised H.R. 555 when it passed the House in January. Sure, there are some uncertainties in the FCC rulemaking process, and there are concerns that HOAs (and some hams) may oppose the rulemaking; but ARPA has minimized the flexibility that FCC has and made some policy statements early in the bills that are very helpful in guiding the FCC.

Q. Why doesn't ARPA allow me to put an antenna on common areas? In my condominium, I would like to put a dipole on the roof, but I can't because this is not under my “exclusive use or control.”

A. The simple answer is that you don't own common area property. Even the over-the-air TV reception devices rule prohibits installation of antennas in common areas. That would be a completely unreasonable expectation of a homeowner or renter. PRB-1 doesn't allow hams to put antennas in public areas, but only on property that the ham owns or rents. ARPA allows every amateur living in a deed-restricted community the ability to have an effective outdoor antenna on property over which the licensee has exclusive use or control. This is an effective tool that allows a radio amateur to negotiate terms with his or her HOA that work for everyone.

Q. Isn't there an alternative to ARPA that better protects Amateur Radio operators living in deed-restricted communities?

A. Not that ARRL has been able to find in more than 35 years of looking. In our view, other than international and domestic spectrum threats, there is no greater threat to Amateur Radio looking forward than private land use regulations. Case law that ARRL has supported



From previous page

ARRL FAQs

over the years has provided very little relief to hams generally and antenna prohibitions in new subdivisions are now the new normal. Without ARPA, there is literally no limit on an HOA's ability to deny Amateur Radio antennas. It has been argued that an alternative to ARPA would be by individual radio amateurs attempting to "sell" the benefits of Amateur Radio disaster communications networks to their HOAs.

Here is why that won't work: HOAs answer to all residents of the deed-restricted community. Given the language of covenants found all over the country, HOAs are either unable to accommodate Amateur Radio because the covenants prohibit it, or else disapproving them is the safest thing to do, so that a neighbor, offended at the appearance of an antenna, won't be able to sue the HOA. The objections that have been floated very recently by a few individuals are misguided. They are, as can be seen above, details. Some can be managed, some not, and some are simply red herring arguments. But make no mistake: ARPA deserves the support of every single radio amateur, whether you are fortunate enough to live on property without deed restrictions or not. Those who think that there is a better solution, let's hear about it. Otherwise, help us get this passed.

Amateur radio volunteers assist where needed in Harvey response

Amateur Radio Emergency Service volunteers have pitched in to support communication at some Red Cross shelters in south Texas in the ongoing aftermath of catastrophic and unprecedented flooding resulting from Hurricane Harvey. ARES members also have been serving as net control liaisons to the Harris County Office of Emergency Management.

A variety of emergency, health-and-welfare, traffic, and tactical nets in south Texas have been active on HF at various times of the day as well as on a wide array of VHF and UHF repeaters, which remain available as needed. The Salvation Team Emergency Radio Network has been convening on 14.265 MHz, while the Military Auxiliary Radio Service has been using 5.330.5 (USB) MHz interoperability channel on 60 meters.

"During the storm response, all Amateur Radio operators -- and perhaps especially those involved in contest activity -- are advised to listen first and respect any frequencies in use for emergency response communication," said ARRL

Emergency Preparedness Manager Mike Corey, KI1U.

ARES team members were advised that the impact to the region's communications infrastructure had been relatively minimal, considering the strength of the storm and the magnitude of the flooding. The storm did ravage cellular service in some Texas counties, however, especially Aransas (84%) and Refugio (73%) counties, the FCC reported. Overall, however, the FCC deemed the cellular system 95% functional.

ARRL South Texas Public Information Officer Mike Urich, KA5CVH, said "hardening" of the telecommunications infrastructure to make it more immune to storm damage has diminished the need for communication support and altered hams' traditional role there. Urich pointed out, however, that the amateur radio telecommunications infrastructure in South Texas has remained analog, as "the lowest common denominator" of technology -- VHF/UHF FM, and HF -- and has the highest degree of interoperability. "That's what we train to, that's what we teach, that's what we practice," he said.

Solar Eclipse QSO Party a hit, but science conclusions await additional analysis

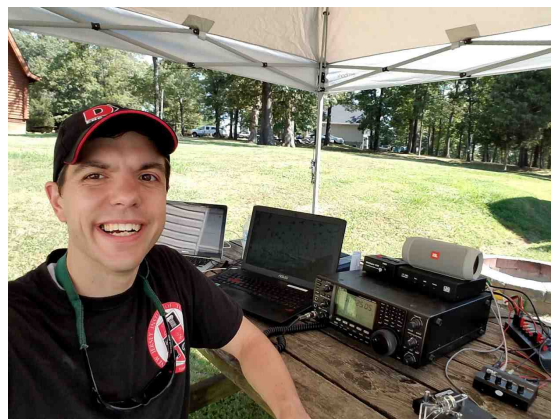
The 2017 Solar Eclipse QSO Party (SEQP) is history, and, while logs are still coming in, the preliminary participation numbers look good, according to Nathaniel Frissell, W2NAF, of HamSCI.

"Although the final numbers are not yet in, preliminary reports show that over 670,000 spots were detected by the Reverse Beacon Network (RBN), and over 542,000 spots were reported to PSKReporter [PSK Automatic Propagation Reporter] during the SEQP," Frissell told ARRL on August 22. "These numbers will increase as data is processed."

Frissell said overall, the event went well, and he heard a lot of on-the-air activity during the 8 hours the SEQP was running.

"It will take some time to get a more scientific analysis of this, but we should have some results by the middle of this semester," said Frissell, who is an associate research professor at the New Jersey Institute of Technology. Frissell and others are investigating whether the sudden absence of sunlight during the eclipse -- and especially of solar ultra-violet and x-rays -- would briefly change the properties of the upper atmosphere.

Despite more than 60 years of research, "open questions remain regarding eclipse-induced ionospheric impacts," Frissell explained in a paper, "HamSCI and the 2017 Total Solar Eclipse," that he'll deliver this year at the ARRL-



HamSCI's Nathaniel Frissell, W2NAF, was in Kentucky for the eclipse.

TAPR Digital Communications Conference (DCC).

He is encouraging anyone who took part in the SEQP to submit a log by September 30. Once their logs are submitted, SEQP participants will get a PDF Certificate of Participation. Frissell, who was in Gilbertsville, Kentucky, to observe the eclipse, said, "Totality was beautiful."

At Maxim Memorial Station W1AW, the focus was more on keeping on top of any emergency situations that could arise from the thousands of visitors converging along the narrow strip of totality. ARRL Emergency Preparedness Manager Mike Corey, K11U, and his assistant Ken Bailey, K1FUG, checked into and monitored the SATERN Net on 20 meters. They also monitored the interoperability channel 1 on 60 meters for coordination with federal partners. W1AW Station Manager Joe Carcia, NJ1Q, checked into WL2K nodes on 40 meters for any possible traffic. "Also, during this time, we went outside to look at the eclipse!" Carcia added.

Many Amateur Radio special event stations were also on the air along the path of totality on August 21.

Veteran Broadcast Listener (BCL) Bill Feidt, NG3K, in Maryland, conducted an informal propagation experiment on the AM broadcast band, listening on 1,070 kHz, which, he reported, "came alive with many signals" at about 1830 UTC. "It was pretty much a jumble," he told ARRL. "But just before 1900 UTC, I was able to identify WNCT in Greenville, North Carolina, which became quite strong and dominant for a few minutes." WNCT's 50 kW daytime signal is aimed away from Maryland.



Hawaiian Islands Grid Madness 2017 set for Sept. 17



**The Hawaiian Islands
Grid Madness mascot**

A VHF/UHF simplex event

Sunday, September 17th from 1300 to 1700 HST

Put it on your calendar!

More info at gridmadness.blogspot.com



All invited to Radio Day II Sept. 30 at 'Great Organic Lava Farm'

Kimberly Fendt, the ARES East Hawaii District Emergency coordinator, invites everyone to the second ARES Radio Day on Saturday, Sept. 30, at the "Great Organic Lava Farm," otherwise known as GOLF or the Kopua Farm Lots Golf Course.

The inaugural event was staged April 29 at the nearby Eden Roc Community Center.

An array of operating techniques and equipment is featured at the fun, educational, networking events. Contact Kim at wh6kim@gmail.com or 430-7297 (call or text).



Folks turned up from all over for the inaugural Radio Day April 29. The second Radio Day is set for Saturday, Sept. 30. All are invited.

To get to GOLF, turn onto South Kopua Road (a short way above Mountain View) from the Volcano Highway.

Stay on Kopua all the way until you reach the Kopua Farmlots. Take the second road (Apele Road) on the left after entering the subdivision. If you get to Eden Roc,

you've gone just a skosh too far. GOLF is at 11-3363 Apele, with two stone pillars and golf greens to greet you.

Set-up will start at around 8 a.m., with activities kicking in at about 9 a.m. A pancake breakfast is planned, with donations to benefit ARES.

*****2017 BIARC leadership*****

President Gary Schwiter, wh6eps@gmx.com; Vice President Peggy Gentle, radiopeg@gmail.com; Secretary Angelina Schwiter; Treasurer Paul Ducasse, ducasse@hawaii.rr.com; directors Cory Allen, KN6ZU@yahoo.com; Barbara Darling, nh7fy@yahoo.com; Richard Darling, ah7g@yahoo.com; Kim Fendt, wh6kim@gmail.com; Bill Hanson, whanson@co.hawaii.hi.us, and Bob Schneider, ah6j@arrl.org; Program Co-Chairs John Bush, amsjbush@gmail.com, and Les Hittner, lhittner@hbc.com. (**Big Island Amateur Radio Club. P. O. Box 1938, Hilo, HI 96721-1938**)

Big Island Amateur Radio Club

Meeting Minutes

August 12th, 2017

I. Call to order:

Gary Schwiter called to order the regular meeting of the Big Island Amateur Radio Club at 1407 hrs. HST, August 12th, 2017 at the Keaau Community Center

II. Roll call

Angelina Schwiter conducted roll call.

The following club officers/directors were present:

Gary Schwiter, Angelina Schwiter, John Bush, Barbara Darling, Richard Darling, Bob Schneider, and Gus Treewater

The following club officers/directors were absent:

Bill Hanson, Paul Ducasse, Peggy Gentle, Cory Allen and Kim Fendt

III. Announcements

- A) Kohala Hamakua Radio Club (KHRC) Ham Fest will be on the 3rd or 4th Saturday at the Waimea Senior Center
- B) The BIARC t-shirt order was able to acquire enough orders to proceed. Orders will be dropped off and will be available soon.
- C) A VHF/UHF Simplex Event (Grid Madness) will be held on September 17th from 1300 to 1700 HST.

IV. Approval of minutes

Angelina Schwiter read the minutes from the July 2017 meeting. The minutes were approved as read.

V. Financial Report

The current balance as of 07.21.17 \$1,833.01 .

VI. Old business

- A) Repeater update provided.

VII. New Business

- A) A motion was approved to appoint Bob Schneider the chair of the nominating committee, John Bush and Gus Treewater volunteered to be members.

VIII. Training

- A) Gary Schwiter, WH6EPS provided an informational slide show about Software Defined Radio (SDR) and P25 Phase 2 Scanners.

IX. Adjournment

Gary Schwiter adjourned the meeting at 1600 hrs. HST.

Next meeting September 9th, 2017

I certify that these minutes are true and correct.

Angelina Schwiter, Secretary



Ten Ten International

You have to make contacts to get results!



Irene Kubica, NH7PE, is an avid participant in 10-meter activity and encourages hams at all levels to join in the fun.

Upcoming events

Tue Oct 10, 2017 00:00

[SPRINT](#)

Sat Oct 21, 2017 00:00 -

Sun Oct 22, 2017 23:59

[FALL CW](#)

Sat Nov 11, 2017 00:00 -

Sun Nov 12, 2017 23:59

[FALL DG](#)

Mon Jan 01, 2018 00:00

[10-10 Anniversary](#)

Mon Jan 01, 2018 00:00

[10-10 Meet the Volunteers](#)

The 10-10 Connection

with NH7PE,

10-10 Aloha Chapter

Ten-Ten Sprint

Party starts October 10



**Be sure to check
www.ten-ten.org for
details**

Have a hankering for rag-chewing?

Check into the daily (except Sunday) SSB nets at 8 a.m. HST on 28.380 and 28.800MHz. They are called from Illinois, California, Arizona, Florida, North Carolina and Michigan. Try them out.

Remember: You have to make contacts to get results!

Ten-Ten International QSO Parties

For those who join in the Ten-Ten QSO Parties, remember: You can assign your score to the Aloha Chapter. Logs must be postmarked no later than 15 days after the respective QSO Party.

To see what's open on 10 meters, listen to the beacons from 28.175-28.300 so you will know where DX is coming from.

The Ten-Ten International News has reprinted several antenna articles by L.B. Cebik (SK), W4RNL #41159.

Ten-Ten International pins are available for purchase at \$2 each. See www.ten-ten.org for details.

CW news: FISTS Get Your Feet Wet Activity Day! Every third Sunday from 0001 to 2400 UTC on 80 and 40 meters (3.558-7.110 MHz); exchange name, QTH, FIST #, RST.