

**MEMORANDUM OF UNDERSTANDING BETWEEN THE ENFORCEMENT BUREAU
OF THE FEDERAL COMMUNICATIONS COMMISSION AND THE AMERICAN
RADIO RELAY LEAGUE, INCORPORATED REGARDING THE USE OF AMATEUR
RADIO SERVICE OPERATOR VOLUNTEERS**

I. Parties. The parties to this Memorandum of Understanding (“MOU”) are the Enforcement Bureau (“EB”) of the Federal Communications Commission (“FCC” or “Commission”) and the American Radio Relay League, Incorporated (“ARRL”). EB is a Bureau of the FCC with certain delegated authority as set forth in the United States Code, Title 47, Section 155(c), and the Code of Federal Regulations, Title 47, Sections 0.111 and 0.311. ARRL is a non-profit association incorporated in Connecticut that represents the interests of Amateur Radio Service operators nationally.

II. Purpose. The purpose of this MOU is to memorialize guidelines for cooperation in a joint effort (the “Volunteer Monitoring Program” or the “Program”) to improve Amateur Radio Service operators' compliance with the FCC rules governing the Amateur Radio Service, which are set forth in 47 C.F.R. § 97.1, et seq. (the “FCC Amateur Rules”). This MOU supersedes and replaces the Amended Agreement dated February 12, 1994, between the FCC's former Field Operations Bureau and ARRL (“1994 Amended Agreement”), pursuant to which the former Amateur Auxiliary program operated. EB and ARRL agree that the Amended Agreement is hereby terminated in all respects.

III. Statutory Authority. Section 4(f)(4)(B) of the Communications Act of 1934, as amended (the “Communications Act”), authorizes the FCC to recruit and train licensed Amateur Radio Service operators and make use of their voluntary and uncompensated services for the purpose of monitoring violations of the Communications Act and the FCC Amateur Rules, solely as such violations relate to the Amateur Radio Service. Section 4(f)(4)(B) of the Communications Act (codified at 47 U.S.C. §154(f)(4)(B)) states as follows:

(B) (i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the amateur radio service, may –

(I) recruit and train any individual licensed by the Commission to operate an amateur station; and

(II) accept and employ the voluntary and uncompensated services of such individual.

(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to –

(I) the detection of improper amateur radio transmissions;

(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service; and

(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

IV. Objectives. The objectives of the Volunteer Monitoring Program are (a) to foster amongst Amateur Radio Service operators a wider knowledge of and better compliance with laws, rules and regulations governing the Amateur Radio Service; (b) to extend and preserve the tradition of self-regulation and self-administration of the Amateur Radio Service by volunteers; (c) to promote rule compliance in the Amateur Radio Service; (d) to enhance the opportunity for individual Amateur Radio Service operators to contribute to the public welfare as outlined in the FCC Amateur Rules; and (e) to enable EB to more efficiently and effectively utilize its resources in enforcing the Communications Act and Commission rules. ARRL will provide EB with the voluntary, uncompensated services of volunteers who are Amateur Radio licensees to fulfill these objectives in the manner set forth in this MOU.

V. Program Structure. Pursuant to the 1994 Amended Agreement, ARRL recruited and organized a group of licensees in the Amateur Radio Service to provide volunteer services under the former Amateur Auxiliary program. Although the Volunteer Monitoring Program may share certain policies, guidelines, and procedures established under the former Amateur Auxiliary program, ARRL and EB hereby agree that (a) the Amateur Auxiliary program established under the 1994 Amended Agreement is terminated, (b) any credentials or authorizations issued by ARRL to participants in the former Amateur Auxiliary program are void and without further force or effect, (c) ARRL intends to recruit and organize a group of licensees in the Amateur Radio Service to provide volunteer services under the Volunteer Monitoring Program (“Volunteer Monitors”), and (d) any participant in the former Amateur Auxiliary program who desires to participate in the Volunteer Monitoring Program as a Volunteer Monitor must submit an application to ARRL for approval to participate. The Volunteer Monitoring Program, operating pursuant to ARRL guidelines and procedures, involves obtaining, coordinating, and conveying information from trained Amateur Radio Service operators to ARRL staff who assemble, screen, and organize the presentation of that information and convey it to EB. The Chief of EB and his or her designees, including but not limited to the Special Counsel who handles amateur radio enforcement, are responsible for supervising and directing the Program on

behalf of the FCC, in conjunction with ARRL's Chief Executive Officer and his or her designees. From time to time, and as either party deems necessary, ARRL and EB intend to jointly review the policies, practices, and procedures of the Program and solve any identified problems. The goal of such cooperative reviews will be to promote consistency and visibility in enforcement matters, so as to improve voluntary compliance and self-regulation by Amateur Radio Service operators.

VI. ARRL's Role. ARRL's role in this cooperative program will be to provide voluntary and uncompensated services to EB as follows:

- (a) to recruit and train Amateur Radio operators to act as Volunteer Monitors who will monitor Amateur Radio Service frequencies as uncompensated volunteers;
- (b) to periodically educate and re-educate Volunteer Monitors and inform them of changes in FCC Amateur Rules and procedures related to enforcement;
- (c) to coordinate the efforts of the Volunteer Monitors in detecting repeated, potentially actionable, and unlawful transmissions made by Amateur Radio Service operators;
- (d) to train Volunteer Monitors to issue advisory notices, under the general direction of EB, to Amateur Radio Service operators who apparently have violated any provision of the Communications Act or the FCC Amateur Rules, provided that such advisory notices (1) shall only be issued in a standard format, the form of which has been pre-approved by EB; (2) shall not include any representation that the Volunteer Monitor is acting for or on behalf of EB or the FCC; and (3) shall exclusively identify the issuing Volunteer Monitor by a unique, anonymous identifier assigned to the Volunteer Monitor by ARRL;
- (e) to arrange for Volunteer Monitors to prepare reports, in a form and format useful to EB, concerning the observed and patterned activity over appropriate time intervals (“Volunteer Monitor Reports”);
- (f) to facilitate the conveyance of Volunteer Monitor Reports to ARRL for review;
- (g) to forward directly to EB personnel any Volunteer Monitor Report that (1) involves repeated actionable, unlawful activity by an Amateur Radio Service operator who has been issued an advisory notice, as contemplated in Section (d), above, and has not corrected the violation(s) identified in such notice; and (2) appears, in the determination of ARRL, essential to the enforcement of the provisions of the Communications Act and the FCC Amateur Rules.
- (h) to seek as even a geographic distribution as practicable of Volunteer Monitors and to emphasize locations where there are no FCC field offices in the deployment thereof; and
- (i) to administer the Program, including, without limitation, by (1) reviewing the qualifications of each Volunteer Monitor candidate to ensure that he or she has the proper knowledge, discretion and demeanor to serve in Program and is a licensee of the Amateur Radio Service, as contemplated in Section VIII, below; (2) assigning each Volunteer Monitor a unique, anonymous, numerical designator to identify the Volunteer Monitor to ARRL and the FCC (upon request) in any Volunteer Monitor Report or notice contemplated in Section (d), above, and (3)

using best efforts to train Volunteer Monitors and manage Volunteer Monitors' expectations with respect to potential EB enforcement actions that may result from a Volunteer Monitor Report.

VII. EB's Role. Subject, in all events, to the availability of resources and in the sole and absolute discretion of the FCC and EB, when acting on its delegated authority, EB's role in this cooperative program will be as follows:

- (a) to review and consider Volunteer Monitor Reports submitted directly to EB by ARRL;
- (b) to initiate and prosecute enforcement actions, including, without limitation, those resulting in the issuance of Warning Letters concerning Amateur Radio Service operators that EB deems appropriate in response to Volunteer Monitor Reports;
- (c) to advise ARRL, upon ARRL's request and to the extent consistent with Federal law and Commission rules and policies, of the status of actions taken in response to Volunteer Monitor Reports submitted by ARRL;
- (d) to provide to ARRL, to the extent consistent with Federal law and Commission rules and policies, public information concerning Amateur Radio enforcement actions not otherwise widely disclosed or disseminated;
- (e) to (i) protect from public disclosure, to the extent consistent with Sections 0.459 and 0.461 of the Commission's rules, information submitted under an express written request for confidentiality from ARRL, pursuant to the Freedom of Information Act (FOIA), including but not limited to 5 U.S.C. §552(b)(7)(D), where such information consists of the identity of, and/or any identifying information (to the extent such information has been provided to EB by ARRL) regarding Volunteer Monitors or any other individuals associated with the Program that have conducted monitoring activities and prepared Volunteer Monitor Reports submitted to EB by ARRL pursuant to this MOU, and (ii) consult with ARRL and provide ARRL an opportunity to appeal prior to any release or disclosure of such information under the FOIA; and
- (f) to assist ARRL in its (i) ongoing training of volunteers by, for example, participating in ARRL-organized continuing education sessions; (ii) publicity for the objectives and accomplishments of the Program; and (iii) identification and implementation of improvements to the Program, based on accumulated experience.

VIII. Training and Selection of Volunteer Monitors. All prospective and incumbent Volunteer Monitors participating in the Program will be required to undergo a training and certification program administered by ARRL and will be vetted by ARRL, through at least one oral interview and a preliminary evaluation by ARRL staff, to determine competency and suitability for participation in the program. ARRL may accept or reject volunteers for the Program in its discretion, based on the results of ARRL's examination of the qualifications of each candidate or incumbent Volunteer Monitor, and ARRL's decisions concerning the qualifications of a Volunteer Monitor shall be final. No Volunteer Monitor will be entitled to participate or to continue to participate in the Program, and ARRL may terminate the participation of any Volunteer Monitor for any reason or for no reason.

IX. Points of Contact. The primary points of contact between ARRL and EB shall be the Chief Executive Officer of ARRL, or his or her designee, and the Chief of EB, or his or her designee (which designee shall initially be the Special Counsel for amateur radio enforcement). As part of the training contemplated under this MOU, ARRL will instruct Volunteer Monitors, when acting in their capacity as a Volunteer Monitor, not to contact the EB Field Offices, Field Agents, or other EB personnel. Under Section VI (g), above, of this MOU, ARRL personnel may submit Volunteer Monitor Reports directly to EB personnel (initially, the Special Counsel for amateur radio enforcement) and will not be required to use any online complaint filing system. ARRL will identify a point of contact with the ARRL to receive and to respond to questions about the Program.

X. Term, Amendments, Periodic Review and Termination. This MOU is effective as of the date set forth below and will remain in effect until terminated. The parties may modify or amend this MOU in writing signed by both parties. This MOU may be terminated by either party hereto at any time by either party, by notice to the other in writing. Upon termination of this MOU, ARRL shall notify all Volunteer Monitors that the MOU has been terminated and that, as a result, Volunteer Monitors are no longer authorized to issue advisory notices pursuant to Section 4(f)(4)(B)(iii)(III) of the Act. Representatives of EB and ARRL intend to meet annually, on or around the anniversary date of this MOU, to jointly review the progress of implementing this MOU, and to revise and develop new plans or goals, as appropriate.

XI. Miscellaneous. Neither party to this MOU has any authority to act on behalf of the other party or bind the other party to any obligation. This MOU is not intended to be enforceable in any court of law or dispute resolution forum and is not legally binding. The only remedy for non-performance under this MOU shall be termination, with no damages or penalty.

American Radio Relay League, Incorporated **Federal Communications Commission,
Enforcement Bureau**

By: _____
Richard A. Roderick
President

By: _____
Rosemary C. Harold
Chief, Enforcement Bureau

Effective Date: _____