



Federal
Communications
Commission

The ASR Environmental Notification Process

June 24, 2014

Background

- On December 9, 2011, the Commission released an *Order on Remand*, 26 FCC Rcd 16700.
 - Includes procedural measures to ensure that environmental effects of proposed communications towers, including their effects on migratory birds, are considered prior to construction.
- The *Order on Remand* took effect on June 18, 2012.

Applicability

The environmental notification process applies to the following types of filings that are submitted in the Antenna Structure Registration (ASR) system.

1. All new tower registrations unless:
 - Another federal agency has taken responsibility for the environmental review; or
 - A waiver is granted.

2. Modifications to existing tower registrations if:

- The height of the existing structure is substantially increased (generally by more than 10%); or
- Lighting is being added to a previously unlit tower; or
- Existing lighting is being modified from a more preferred lighting configuration to a less preferred lighting configuration.

“[L]ighting styles are ranked as follows (with the most preferred lighting style listed first and the least preferred listed last): (1) no lights; (2) FAA Lighting Styles that do not involve use of red steady lights; and (3) FAA Lighting Styles that involve use of red steady lights.” 47 C.F.R. § 17.4(c)(1)(C).

3. Amendments to pending applications if:

- There is any change in the type of structure; or
- There is any change in the coordinates of the tower location; or
- There is an increase in the overall height of the structure; or
- There is a change from a more preferred lighting configuration to a less preferred lighting configuration; or
- An Environmental Assessment (EA) is added.

ASR Registrations Not Subject to Environmental Notification Process

- Collocations and modifications that do not involve a substantial increase in size or a change to less preferred lighting.
- Towers subject to another federal agency's review as lead agency.

ASR Registrations Not Subject to Environmental Notification Process

- Replacement towers if:
 - The same location (located less than one second in latitude and longitude from original tower);
 - Lighting remains the same, or the change in lighting is not to a less-preferred configuration;
 - No substantial increase in size (per the NPA definition); and
 - No construction or excavation more than 30 feet beyond tower.

Process Overview

- FCC Form 854, Antenna Structure Registration (ASR), is submitted in two parts.
- Part 1 requires you to submit a partially completed FCC Form 854 – Antenna Structure Registration. Information provided in Part 1 includes:

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- Ownership information;
 - Contact name, address, and phone number (helpful if contact is responsible individual);
 - Location, height, and type of structure;
 - Anticipated marking and/or lighting;
 - Whether another federal agency is taking responsibility for the environmental review;
 - The national notice date; and
 - Whether an Environmental Assessment (EA) is included.

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- Federal Aviation Administration (FAA) clearance is required, and can be obtained prior to or after submitting the partially completed Form 854.
 - If FAA Study Number is not provided with Part 1 submission, applicant needs to list the anticipated marking and/or lighting.
 - Once the partially completed Form 854 is submitted, an ASR File Number will be assigned.

Local Notice

- After submitting the partially completed Form 854, the applicant must provide local notice of the proposed tower registration by publication in a local newspaper or by other means.
- Information to be included in local notice can be found at <http://www.fcc.gov/asr/localnotice>

Applicant may provide local notice under both this process and the Commission's procedures implementing section 106 of the National Historic Preservation Act (NHPA) through a single publication, provided that the single notice:

- Satisfies the timing requirements of both provisions; and
- Clearly describes and distinguishes the requirements for public comment under the two provisions.

Applicant must forward any comment that substantially relates to potentially affected historic properties to the State Historic Preservation Officer or Tribal Historic Preservation Officer, in accordance with the terms of the Nationwide Programmatic Agreement.

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- After local notice is provided, the FCC will post the proposed tower registration on its website for a 30-day comment period.
 - If local notice does not take place on or before the selected National Notice Date, applicant should amend application to select a later National Notice Date. *Failure to do so can result in having to redo National Notice.*
 - Members of the public will have an opportunity to file a request for further environmental review.

Application Part 2

- Approximately 40 days after national notice, if the appropriate Bureau has determined that the application does not require additional environmental processing, the applicant can complete Part 2.
- Applicants can determine which of their pending applications are ready for completion of Part 2 by accessing the ASR website.

Part 2 requires the applicant to:

- Provide the FAA Study Number and Issue Date (if not provided in Part 1);
- Provide the local notice date; and
- Certify that the tower will have no significant environmental impact.

At this point, if all required information has been provided, the Form 854 will be deemed complete and can be processed accordingly.

Waivers

- Form 854 allows applicant to seek a waiver for emergencies (Question 45).
- Should applicant seek a waiver for a different reason (*e.g.*, registering an existing structure), answer Question 45 “Yes,” and attach an explanation.

Registration of Existing Structure

General Rule: If a structure was in place prior to the effective date of the Order (June 18, 2012), no Environmental Notice is required.

Applicant must get a waiver. Waiver request should indicate:

- When structure was constructed (or best estimate); and
- No changes are being made to height or lighting.

Depending on circumstances, applicant may be subject to enforcement action for failure to register.

Correction of Lighting

- Generally, notice must be provided if lighting is changed to a less-preferred style.
- If application is to correct lighting to reflect lighting already in place, no notice is required if the lighting was in place prior to June 18, 2012.
- Waiver request should indicate:
 - When current lighting took effect (or best estimate); and
 - No changes are being made to lighting.

Depending on circumstances, applicant may be subject to enforcement action for having incorrect lighting in ASR.

Temporary Towers

Interim procedure permits waiver of notice process for a temporary tower if the tower:

- will be in use for no more than 60 days;
- requires notice of construction to the FAA, but does not require marking or lighting under FAA regulations;
- will be less than 200 feet in height; and
- involves no or only minimal ground disturbance.

Temporary Towers

Waiver request should indicate that the proposed tower meets these criteria.

The *Infrastructure NPRM* proposed amending the rules to codify this exemption.

Other Federal Agency Review

Environmental Notification is not required if:

- The proposed structure is located on federal land and the landholding agency has assumed lead agency responsibility to conduct environmental review; or
- Another federal agency has assumed lead agency responsibility for evaluating the proposed antenna structure pursuant to a written agreement with the Commission.

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- The other agency must conduct a review – exercising a categorical exclusion is not enough.
 - Applicant must submit the other agency's EA/FONSI or EIS/ROD.

“Further Environmental Review”

- If a member of the public files a Request for Further Environmental Review, Applicant can file Opposition, and requester can file Reply to Opposition.
 - FCC goal is to resolve most Requests within days after pleading cycle ends.
 - Providing responsive pleadings helps the FCC make its determination quickly and accurately.

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- If Request denied, FCC will notify parties and applicant can then complete Part 2.
 - If Request granted, or if FCC decides to require additional filing on its own motion, Applicant will be required to submit an EA (or supplement an existing EA), and application will go back on National (but not Local) Notice.

Additional Resources

- FCC Environmental Notification Process Help Page -- <http://www.fcc.gov/help/environmental-notification-process-registration-antenna-structures-overview>
- FCC ASR Help Page -- <http://www.fcc.gov/help/antenna-structure-registration-asr-help>