

Environmental Compliance Workshop

Overview of Antenna Structure Registration Requirements

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* This presentation and its contents are for informational purposes only; the Commission's rules in part 47 of the Code of Federal Regulations and the Commission's previous reports and orders adopting those rules represent the binding rules and determinations of the Commission.

Overview



Antenna Structure Registration



FAA Requirements



Environmental Requirements

What is ASR?

- ▶ Antenna Structure Registration (ASR) is the FCC's online system that stores the following information for certain tower structures: (i) the tower's owner and contact information; (ii) antenna structure information (e.g., structure type, location, height, and lighting, including FAA study number and issue date); (iii) NEPA-related information (e.g., public notice dates, environmental assessments (EAs), if required); (iv) exceptions to the environmental notification process, waiver requests, decision documents, and other related attachments; and (v) a record of filing dates and changes made to the application.

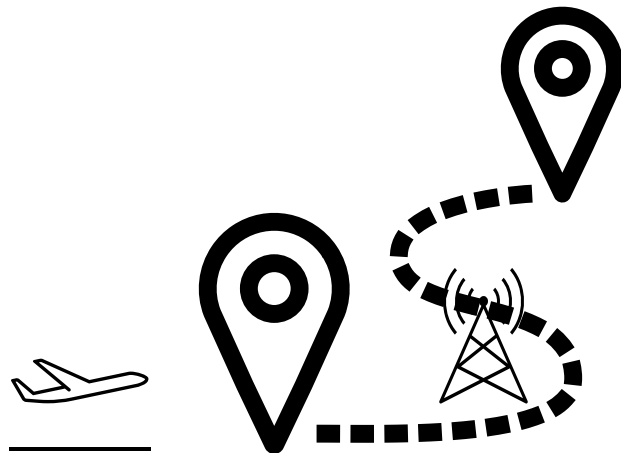
ASR does not collect frequency information.

- ▶ ASR applicants must complete:
 - ▶ FAA study number and issue date; and
 - ▶ FCC environmental notification process (unless an exception applies or a waiver is granted).

Construction may not begin until ASR is granted.

FAA-related Requirements

- ▶ FCC rules require ASR when notice to the FAA is required due to physical obstruction:
 - ▶ More than 200 feet above ground level (AGL); or
 - ▶ 200 feet or less AGL but fails the “slope test”—i.e., it may interfere with the flight path of a nearby airport or helipad.
- ▶ Applicants determine whether ASR is required by using the FCC’s TOWAIR tool or other tools (e.g., FAA’s Notice Criteria Tool; commercially-available tools).
- ▶ If ASR is required, applicant must provide a valid FAA study number associated with a *No Hazard Determination* issued by the FAA and its issue date to complete the ASR application.



Environmental Notification Requirements

- ▶ In 2011, the Commission adopted the ASR environmental notification process to facilitate consideration of environmental effects of proposed communications towers prior to construction, consistent with the Commission's obligations under federal environmental statutes.
- ▶ Unless an exception applies or a waiver is granted, the environmental notification process applies to all new tower applications in the ASR system and to certain applications for modification of registered towers that may have a significant environmental effect.

Relevant rule: 47 CFR § 17.4(c)
Relevant order: 26 FCC Rcd 16700 (2011)

Environmental Notification is a Multistep Process

GO (Part 1)

- Submit a partially completed ASR application (FCC Form 854) and obtain ASR application number.
- Use ASR application number to provide local public notice.
- Set national public notice date in ASR to begin on or after the local public notice date.
- The national public notice date commences a 30-day comment period to give the public opportunity to file a request for further environmental review.

If the FCC receives a request for further environmental review:

- The Wireless Telecommunications Bureau (Bureau) determines whether an environmental assessment (EA) is required.
- The submission of an EA restarts the 30-day comment period.
- The pleading cycle must conclude prior to moving to next step. (With either a dismissal or a FONSI)

The following steps may be completed only after any request and Bureau concerns are resolved.

- Amend ASR application to include FAA Study number and issue date (if not already supplied).
- Certify that the tower will have no significant environmental impact.

Part 2 Certification
(discussed later)

Exceptions to the Environmental Notification Process

Each prospective ASR applicant must complete the environmental review process, which includes local and national notice.

▶ Exceptions:

- ▶ notification only (e.g., change in ownership or contact info; dismantlement);
- ▶ reduction in tower size or increase in height that is not “substantial”;
- ▶ removal of lighting or change to an equally or more preferred style;
- ▶ replacement tower meeting certain criteria;
- ▶ change that does not alter the physical structure, lighting, or location;
- ▶ Federal agency exception (When FCC agrees that another Fed Agency is taking responsibility for environmental review of the proposed structure) or;
- ▶ temporary tower meeting certain criteria.

▶ Grant of an emergency waiver

- ▶ Generally, an “emergency” sufficient for an emergency waiver is neither avoidable nor foreseeable—e.g., a natural disaster.
- ▶ Post-authorization or post-construction public notice may still be required.

Relevant rule: 47 CFR § 17.4(c)

Replacement Tower Exception

▶ To meet this exception, the subject tower must:

- ▶ be in the same geographic location as the tower it is replacing;
- ▶ not require an EA under 47 CFR § 1.1307(a)-(d);
- ▶ not use a less-preferred lighting style than the original tower;
- ▶ not involve a substantial increase in height from the original tower; and
- ▶ not involve construction or excavation more than 30 feet beyond existing antenna structure property.

While less common, a substantial increase in size would disqualify a proposed tower from meeting the replacement tower exception if:

- the replacement tower involved the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
- the proposed antenna structure would be more than twenty feet wider or more than double the width of the existing antenna structure at any height, whichever is greater.

Temporary Tower Exception

▶ To meet this exception, the proposed tower must:

- ▶ be in place for no more than 60 days;
 - ▶ require notice of construction to the FAA;
 - ▶ not require marking or lighting under FAA regulations;
 - ▶ be less than 200 feet in height above ground level; and
 - ▶ involve no excavation or excavation only where the depth of previous disturbance exceeds the proposed construction depth (excluding footings and other anchoring mechanisms) by at least two feet.
- ▶ Additionally, an applicant must wait 30 days after removal of a temporary antenna structure deployed pursuant to this exception before relying on this exception again to deploy another antenna structure covering substantially the same service area.

ASR Application Requiring Environmental Notification

▶ Information required upfront:

- ▶ ownership information such as name, address, and phone number;
- ▶ contact information such as name, address, and phone number;
- ▶ antenna structure information such as the location, height, and type of structure;
- ▶ proposed 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.

FAA No Hazard Determination / Study

- ▶ Not required to file an ASR application.
- ▶ Not required to commence the environmental notification process.
- ▶ However, the lighting and marking description contained in both the local and national public notices must be accurate.
 - ▶ If the FAA requires different lighting and/or marking than that described in the public notice, public notice must be redone.
 - ▶ Because national notice cannot precede local public notice, if only the local public notice contained incorrect information, both would have to be redone.
- ▶ An ASR application will not be granted without a valid FAA Study number.

Local Public Notice

Timing

- ▶ The local public notice date is not required upfront in the application process but is required before the application can be granted.
- ▶ Local notice must be published before or on the same day as national public notice date.
- ▶ In the event local public notice must be redone for any reason, national notice will also have to be redone.

Location and Content

- ▶ Notice must be made through publication in a newspaper of general circulation or other appropriate means, such as through the public notification provisions of the relevant local zoning process.
- ▶ The Form 854 File Number (ASR application number);
- ▶ the geographic location, structure type, height, and anticipated lighting for the proposed new or modified structure;
- ▶ a statement that interested persons may access and review the application online at www.fcc.gov/asr/applications by entering the Form 854 File Number; and
- ▶ a statement that interested persons may raise environmental concerns about the proposed structure by filing a request for environmental review with the FCC online, and that instructions for making such filings can be found at www.fcc.gov/asr/environmentalrequest.



Combining Local Public Notices

- ▶ Local public notice is required as part of both the Commission's environmental notification process and its Section 106 (National Historic Preservation Act) review.
- ▶ Applicants may publish one local public notice for both if the notice contains all the required elements of both review processes.
- ▶ Section V.C of the NPA for Review of Effects on Historic Properties (47 CFR Part 1, Appx. C) requires the following elements in local public notice:
 - ▶ location of the proposed facility including street address;
 - ▶ a description of the proposed facility, including type and height;
 - ▶ instructions on how to submit comments regarding potential effects on Historic Properties; and
 - ▶ the name, address, and phone number of a contact person.

Beware of local public notice websites

- Public notice must be both specifically local and well-known to members of the public (“... publication in a newspaper of general circulation or other appropriate means, such as through the local zoning process[.]”)
- A local newspaper will generally suffice, but it must be sufficiently local—e.g., a newspaper from a neighboring town is unlikely to suffice if the town in question also has a newspaper.
- A website (particularly if fee-based) is unlikely to satisfy that requirement.

National Public Notice - Timing



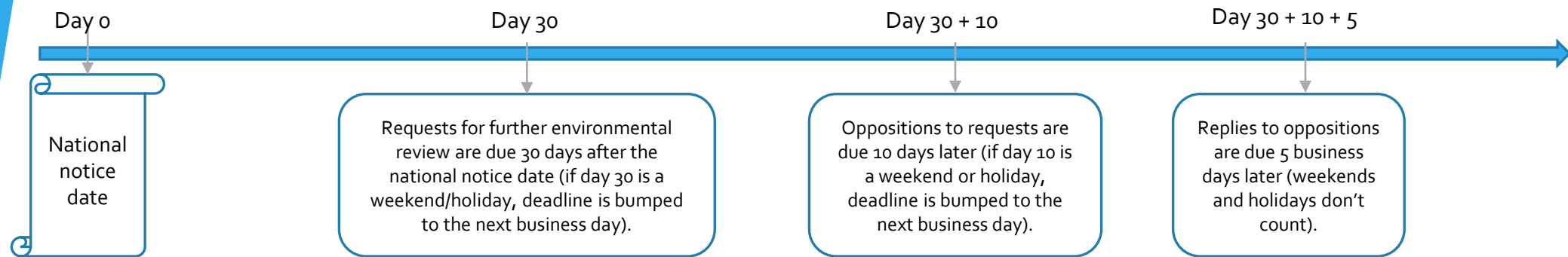
- ▶ A national notice date is required for filing an ASR application that requires environmental notification.
- ▶ On the date applicant requests, the Commission will post the application information on its website; it will remain posted for 30 days.
- ▶ An applicant may change the national notice date to any date in the future, as soon as the next business day.
- ▶ National public notice may not precede local public notice.
- ▶ The pleading cycle for any requests for further environmental review received is based upon the national notice date.
- ▶ If, after a request is received, the applicant wishes to change the national notice date to another future date, it should immediately notify all parties on the email chain.

National Public Notice – Content and Where to Find It

- ▶ National public notice provides interested persons access to the information in the ASR application.
- ▶ List of Applications on Environmental Notice is available at: <https://wireless2.fcc.gov/ASRManager/service/nationalNoticeReport.faces> (link also available toward the bottom of the ASR home page).

Requests for Further Environmental Review – Pleading Cycle

- ▶ The pleading cycle is based on the national notice date.
- ▶ Once a request for further environmental review is received, applicant should inform the Bureau and any requester(s) immediately if it wishes to change the national notice date on its application.



Requests for Further Environmental Review – Content

- ▶ Request must state why:
 - ▶ the interested person or entity believes that the proposed antenna structure or physical modification of an existing antenna structure may have a significant impact on the quality of the human environment for which an Environmental Assessment must be considered by the Commission as required by 47 CFR § 1.1307(c) and/or § 17.4(c)(5)(ii); or
 - ▶ an EA submitted by the ASR applicant (uploaded in ASR) does not adequately evaluate the potentially significant environmental effects of the proposal.
- ▶ Must submit a written petition electronically.
- ▶ If a filer cannot submit electronically, they may submit a written petition by mail along with a request for waiver under § 1.1304(b).
- ▶ Must set forth in detail reasons supporting the requester's allegations.

Last Step – Part 2 Certification

▶ May not be submitted until:

- ▶ all environmental review is completed, including Section 106 and TCNS processes and the execution of an MOA if required;
- ▶ all requests for further environmental review have been resolved by the Bureau; and
- ▶ if an EA has been submitted, the Bureau has issued a Finding of No Significant Impact.

▶ When is application ready for Part 2 Certification?

- ▶ To check if the application is ready for the Part Two Certification, log in to ASR Online Filing (<https://wireless2.fcc.gov/ASRManager/login.faces>) with FCC Registration Number (FRN) and password.
- ▶ From the Antenna Structure Registration Dashboard, click the My Applications tab. On the Application Manager page click the Env. Certification tab. The application file number will appear here if it is ready for certification.

Do not attempt to complete Part 2 Certification prematurely.

Additional Environmental Notification

- ▶ In some cases, an antenna structure owner may have to undertake an environmental notification for the same structure more than once. Examples include:
 - ▶ Defects in prior public notice—e.g., missing or inaccurate content or publishing national public notice before local public notice.
 - ▶ Certain amendments to pending ASR applications.
 - ▶ Certain modifications to registered towers.

Amendments to Pending Applications



New environmental notification must be done for all other changes to the physical structure, lighting, or geographic location data, including:

- any change in structure type or coordinates;
- any increase in tower height; or
- any change to a less-preferred lighting style, including the addition of lights when there previously was none.

Adding an environmental assessment to the application also requires new national notice and may require new local notice.



No new environmental notification required for:

- reduction in height for a proposed new or modified antenna structure;
- proposed lighting is removed or changed to an equally preferred or more preferred lighting style; or
- purely administrative changes.

Modifications to Existing Registrations



You can reach out to CIPD with any questions about whether a specific case is a minor or major mod.

Major modifications to registered towers require environmental notification:

- substantial increase in height;
- submitting an environmental assessment; or
- changing the registered lighting to a less-preferred lighting style.



Minor modifications do not require environmental notification:

- administrative changes;
- updating the FAA Study number;
- correcting coordinates (under limited circumstances, assuming the tower is not physically moving);
- lowering the overall AGL height; or
- changing registered lighting to a more preferred or equally preferred lighting style.

Service-specific Applications and the Environmental Notification Process

To accommodate the environmental notification process, applicant has two options when filing a service-specific license application on the FCC Form 601 (Form 601) in the Universal Licensing System (ULS) for an antenna structure that also requires registration in the ASR system:

(If Form 854 application has been granted)

Provide the ASR Registration Number on the Form 601.

(If Form 854 application has not been granted)

Provide the ASR File Number on the Form 601 if the following conditions are met:

- an FAA No Hazard Determination has been obtained and the FAA Study Number on the Form 854 application has been included;
- local notice of the proposed antenna structure has been provided; and
- the proposed tower has been posted on the FCC's website pursuant to the environmental notification process.



Questions?

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