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Regional Administrator, U.S. EPA, Region V.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 17, 21, 22, 23, 25, 73, 74, 78, 80, 87, 90, 94, 95, and 97

[WT Docket No. 95-5, FCC 95-16]

Streamlining the Antenna Structure Clearance Procedure and Revision of the Rules Concerning Construction, Marking, and Lighting of Antenna Structures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a Notice of Proposed Rule Making which seeks to streamline the Commission's antenna structure clearance process by instituting a uniform registration process for structure owners, revise the current antenna structure painting and lighting requirements in keeping with updated recommendations by the Federal Aviation Administration (FAA), and make antenna structure owners primarily responsible for antenna structures that require painting and/or lighting. This action stems from the Commission's effort to streamline regulatory processes and eliminate unnecessary public burdens as well as the need to update the Commission's Rules to reflect recent changes in two FAA Advisory Circulars and the Communications Act of 1934, as amended. Thus, the proposed rules should reduce the number of Commission filings, expedite the processing authorizations involving FAA coordination, and clarify rules concerning the painting and lighting of antenna structures.

DATES: Comments must be filed on or before March 21, 1995, and reply comments must be filed on or before April 20, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Roger Noel of the Wireless Telecommunications Bureau at (202) 418-0680, or Robert Greenberg of the Mass Media Bureau at (202) 418-2720.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, WT Docket No.

95-5, FCC 95-16, adopted January 12, 1995, and released, January 20, 1995. The full text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor International Transcription Services, 2100 M Street NW., Washington, DC 20037, telephone (202) 857-3800.

Summary of Notice of Proposed Rule Making

1. The Commission has initiated the instant proceeding to thoroughly review its antenna structure clearances process, eliminate unnecessary public burdens, and reduce processing time for Commission authorizations that require FAA coordination. Presently, the clearance process requires identifying the coordinates and height of each antenna structure requiring FAA notification (*i.e.*, each structure exceeding 60.96 meters (200 feet) in height above ground level or within close proximity to an airport). If the FAA determines that such a structure is a potential hazard to air navigation because of its height or location, the FAA may recommend that the antenna structure height be decreased, recommend painting or lighting specifications, or both. Thus, the current clearance process requires certain prospective licensees and permittees to file antenna structure data with the Commission and the FAA, and upon authorization, holds licensees and permittees responsible for the painting and lighting of antenna structures, where required.

2. The Commission proposes three distinct changes to the rules. First, the Commission proposes to replace the current clearance process with a streamlined procedure for registering each antenna structure which requires FAA notification. The registration process would require the antenna structure owner, not the licensees or permittees using the structure, to (1) register the antenna structure with the Commission, (2) maintain the structure's painting and lighting in accordance with the Commission's Rules, (3) notify the Commission of changes in height, coordinates, ownership, painting, or lighting of the structure, and (4) notify the Commission upon dismantling the structure. This proposed action would not impose a greater net filing burden on the public, but would instead decrease the number of entities affected by these requirements.

3. Second, the Commission proposes to incorporate by reference the recommendations found in the following two FAA Advisory Circulars: Obstruction Marking and Lighting (AC 70/7460-1H) released August, 1991, and Specification for Obstruction Lighting Equipment (AC 150/5435-43D) released July, 1988. This proposed change updates the Commission's Rules in light of the FAA's recent air safety recommendations and would grandfather the present painting and lighting requirements of existing structures for 10 years. This action would serve to streamline the Commission's Rules and increase air safety.

4. Third, the Commission proposes to implement statutory language holding antenna structure owners primarily responsible for compliance with the Commission's painting and lighting requirements. This means that the Commission would first look toward structure owners to ensure that antenna structures are painted and lighted in accordance with the Commission's Rules. In cases where reliance on the owner proves ineffective, the Commission would turn toward the tenant licensees and permittees to ensure that the structure is properly painted and lighted.

5. The Commission seeks specific comments concerning the proposed rule amendments, options for implementing the registration process, and whether the proposal may necessitate changes to the Commission's environmental rules in 47 CFR 1.1301-1.1319.

6. Initial Regulatory Flexibility Analysis. *Reason for Action.* The Commission proposes to: (1) institute a procedure to register certain antenna structures, used by Commission licensees and permittees, which require notice to the FAA of proposed construction, (2) revise the Commission's painting and lighting requirements to incorporate by reference FAA Advisory Circulars AC 70/7460-1H (August 1991) and AC 150/5435-43D (July 1988), and (3) hold antenna structure owners primarily responsible for compliance with the Commission's painting and lighting requirements.

Objectives

The Commission seeks to: (1) reduce the number of filings to the Commission regarding changes to antenna structures, (2) expedite application and notification processing, (3) unify and streamline federal painting and lighting regulations to ease the public and governmental burdens associated with processing certain application, (4) increase safety in air navigation.