



NAB Signs on to Proposal Regarding Towers and Birds

On May 3, 2010, after extensive negotiations, NAB and six other organizations submitted to the FCC a Memorandum of Understanding (MOU) that contained recommendations designed to help the FCC protect migratory birds as part of its Antenna Structure Registration (ASR) process.

Two years ago, the federal appeals court in Washington, D.C. ordered the FCC to expeditiously change its ASR program and to give public notice prior to granting tower applications. At the request of the FCC, NAB, along with other industry Infrastructure Coalition Members (CTIA – The Wireless Association, PCIA and the National Association of Tower Erectors) and the conservation groups (comprised of the American Bird Conservancy, the Defenders of Wildlife and the National Audubon Society) entered negotiations to develop interim standards that would be used for the ASR program.

The conservation groups were pressing the FCC to adopt an aggressive set of policies and procedures, including Environment Assessments (EA) for all towers, which would have slowed ASR grants from overnight to over a year. In addition, many of their suggestions would have seriously impeded the approval of taller towers.

The agreement covers towers for which an ASR is required to be filed. Depending upon the height of the proposed tower or the specifications of a replacement tower, some would require an EA to be performed to assess the tower's impact on migratory birds and would be placed on public notice (per court order), others (e.g., shorter towers, replacement towers, repaired towers) could be exempted from the process. Among other things, the MOU proposes three ASR categories:

Category #1 - New Towers taller than 450 feet above ground level (AGL).

- ASRs always require inclusion of an EA upon filing.
- ASRs will always be placed on Public Notice by the FCC.

Category #2 - New Towers of a height of 351 to 450 feet AGL.

- ASRs do not initially require an EA based on avian concerns.
- ASRs will always be placed on Public Notice by the FCC.
- The FCC will determine whether an EA is necessary for Category #2 ASRs after reviewing the ASR application and any filings made in response to the Public Notice.

Category #3 - New Towers of a height no greater than 350 feet AGL, Replacement Towers and Minor ASRs.

- ASRs do not require an EA upon filing based on avian concerns.
- The parties could not agree on whether Public Notice is required for Category #3 ASRs; see Section III.B, of the MOU for a discussion of this point.

In addition, the MOU calls on the FCC to adopt and utilize a preferred lighting scheme (Lighting Preference Chart) for changes to existing towers that might minimize potential adverse consequences. The Conservation Groups rank FAA Lighting Styles in the following order, with the most preferred lighting system listed first and the least preferred light system listed last:


FAA Style B (L-856)
FAA Style D (L-865)
FAA Style E (L-864/L-865/L-810s)
FAA Style C (L-856/L-865)
FAA Style F (White Strobe Day/Red Beacon Night and L-810s)
FAA Style A (L-864/L-810)

(A complete description of each FAA Lighting Styles and the manner in which it is to be deployed is found at [FAA, U.S. Dept. of Transportation, Advisory Circular: Obstruction Marking and Lighting, AC 70/7460-1K](#), (Feb. 1, 2007).)

Thus, If the owner of an existing tower plans to change from one FAA Lighting scheme to another, the Lighting Preference Chart would be used to determine whether the change would require a Category #2 or Category #3 ASR to be filed:

- A change of lighting system from a less preferred FAA Lighting Style to a more preferred FAA Lighting Style would require the filing of a Category #3 ASR, and
- A change of lighting system from a more preferred FAA Lighting Style to a less preferred FAA Lighting Style would require the filing of a Category #2 ASR.

A copy of the MOU is available [here](#). NAB is optimistic that the Commission will endorse the agreement and avoid a significant percentage of broadcast towers ASRs from having to submit an Environmental Assessment at the time of application/public notice.



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