



## NAB Signs on to Proposal Regarding Towers and Birds

On May 3, 2010, after lengthy 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 access 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 for changes to existing towers that might minimize potential adverse consequences.

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



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