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FCC Proposes Revisions to Tower Lighting and Marking Rules

The FCC has issued a *Notice of Proposed Rulemaking* to update its antenna structure lighting and marking rules. Its goal is to fulfill its statutory responsibility to ensure the safety of air navigation through streamlined requirements and effective enforcement.

Currently, structures must obtain a “no hazard” determination from the Federal Aviation Administration and then be registered with the FCC’s Antenna Survey Branch (a) if they support (or serve as) antennas and, with appurtenances, exceed 200 feet above ground level or (b) if they are sufficiently close to an airport runway so as to exceed a “slope test.” The FCC registration often contains FAA marking and/or lighting specifications.

In addition to editorial improvements and exploring how best to conform and coordinate FCC and FAA marking and lighting requirements, the FCC has made a number of specific proposals:

- **Accuracy of Location and Height Data** – The FCC proposes to require a new FAA study whenever a change or correction of location results in a difference of at least one second of latitude or longitude or one foot of height. To ensure accuracy, the Commission asks whether a specific survey method, such as GPS technology, should be mandated for all tower measurements.
- **Notification Requirements** – A pending FAA rulemaking proposes to expand the events that trigger the requirement of a new FAA study beyond physical tower attributes to include operation in specified frequency bands or changes in frequency, power or antenna configuration. The Commission will consider how to coordinate its own approaches to the outcome of the FAA rulemaking.
- **Maintenance** – Here, the Commission proposes to scale back on its existing requirements. Currently, the Commission requires quarterly physical inspection, daily observation, and reports to the nearest FAA office within 30 minutes of any lighting extinguishment or malfunction. The Commission proposes to replace the inspection and observation requirements with a simple rule mandating prompt reporting of outages, such that tower owners would be held responsible for lapses regardless of the measures they may have taken to ensure compliance. As an alternative, the Commission will consider exempting from its inspection requirements towers using certain automatic or mechanical monitoring systems of proven reliability.
- **Time-Frames** – The Commission notes that current notifications of outages automatically expire after 15 days, and proposes to require that notifications be renewed at 15-day intervals until proper operation is restored. (In that regard, the Commission specifically notes that loss of power does not exempt tower owners from the notification requirement.) The Commission further suggests mandating time limitations for lighting system repairs and, if so, whether factors such as geographic location or weather conditions should be taken into account.
- **Preservation of Records** – The Commission questions whether records of extinguishment or improper structure lighting should be required at all, or, alternatively, whether they should continue to be retained for two years and be made available for inspection.

- **Painting Standards** – The Commission concedes that its current standard that structures be painted to maintain good visibility is vague and could be subject to inconsistent enforcement. It proposes use of the FAA’s objective “In Service Aviation Orange Tolerance Chart.” Whichever visibility requirement it adopts, it asks whether observation should be made at the tower base, as is now done, or at a distance of a quarter-mile, which, while subjective, would more closely approximate tower visibility from a pilot’s perspective.
- **Clarification of Responsibility** – The Commission will clarify that its structure obligations extend only to owners, and not to mere tenants (who in the past have been fined for problems on towers they merely occupy). It will also clarify that obligations remain until a tower is dismantled, even if it no longer supports licensed facilities.
- **Posting of Registration Numbers** – In lieu of the current requirement that FCC structure registration numbers be posted near the tower base, the Commission proposes that the number should be displayed so as to be visible at the closest publicly-accessible location near the base. Where separate locations exist for a single structure, such as two roads from different directions, posting would be required at both locations.

A copy of the complete *Notice of Proposed Rulemaking* (WT Docket No. 10-88) can be accessed through the FCC’s website at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-53A1.pdf. The Commission invites comments on these proposals, to be filed within 60 days after publication in the Federal Register.

If you have any questions about the impact of these proposals, please contact [Peter Gutmann](#) or any member of the firm’s [Communications Law Group](#).

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