

Dated: January 4, 1995.

**Valdas V. Adamkus,**

*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.

**Legal Basis**

The proposed actions are authorized under sections 4(i), 4(j) and 303(r) of the Communications Act 47 U.S.C. 154(i), 154(j), and 303(r).

**Reporting, Recordkeeping and Other Compliance Requirements**

The proposed revision of 47 CFR Part 17 would require certain antenna structure owners to register their structures and to comply with the Commission's painting and lighting requirements. Additionally, each owner would have to provide a copy of the Antenna Structure Registration to all tenant licensees and post the structure's Registration Number at the site. Further, the proposed rules eliminate the requirement for certain licensees and permittees to individually file with the Commission to amend structure height or painting and lighting specifications. Most licensees and permittees, however, would have to provide the Registration Number of the structure from which they intend to transmit when filing for a new, modified, or renewed authorization.

**Federal Rules Which Overlap, Duplicate or Conflict With These Rules**

None.

**Description, Potential Impact, and Small Entities Involved**

Any rule change requiring a small business antenna structure owner to file an application for Registration could affect a small business. However, the overall impact, if any, will be minimal because the proposed registration process will eliminate the need for many small business licensees and permittees on an antenna structure to file certain applications and notifications. The Commission will further examine the impact of any rule changes on small entities after evaluating the comments in this proceeding.

**Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives**

None.

**List of Subjects****47 CFR Part 0**

Organization and functions (Government agencies).

**47 CFR Part 1**

Administrative practice and procedure.

**47 CFR Part 17**

Antennas, Aviation safety, Communications equipment, Radio,

Reporting and recordkeeping requirements.

**47 CFR Part 21**

Communications equipment, Radio, Reporting and recordkeeping requirements.

**47 CFR Part 22**

Communications equipment, Radio, Reporting and recordkeeping requirements.

**47 CFR Part 23**

Radio, Reporting and recordkeeping requirements.

**47 CFR Part 25**

Communications equipment, Radio, Reporting and recordkeeping requirements.

**47 CFR Part 73**

Radio broadcasting, Television broadcasting.

**47 CFR Part 74**

Radio broadcasting, Television broadcasting.

**47 CFR Part 78**

Communications equipment, Radio, Reporting and recordkeeping requirements.

**47 CFR Part 80**

Communications equipment, Radio, Reporting and recordkeeping requirements.

**47 CFR Part 87**

Communications equipment, Radio, Reporting and recordkeeping requirements.

**47 CFR Part 90**

Communications equipment, Radio, Reporting and recordkeeping requirements.

**47 CFR Part 94**

Communications equipment, Radio, Reporting and recordkeeping requirements.

**47 CFR Part 95**

Communications equipment, Radio, Reporting and recordkeeping requirements.

**47 CFR Part 97**

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**  
Secretary.

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**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration****49 CFR Part 214**

[FRA Docket No. RSOR 13, Notice No. 3]

RIN 2130-AA86

**Roadway Worker Protection**

**AGENCY:** Federal Railroad Administration (FRA); DOT.  
**ACTION:** Notice; Schedule of Advisory Committee Meetings.

**SUMMARY:** The Federal Railroad Administration is announcing as required by the Federal Advisory Committee Act (Pub. L. 92-463) its meeting schedule for the Advisory Committee on Regulatory negotiation (concerning the protection of railroad employees who work on or adjacent to track and face the risk of injury from moving trains and equipment). This Advisory Committee (Committee) will meet in 1995 on the dates listed below.  
**DATES:** Meetings of the Committee are scheduled on the following dates:

1. Thursday and Friday, February 16-17
2. Tuesday and Wednesday, March 7-8
3. Thursday and Friday, March 23-24
4. Monday and Tuesday, April 3-4
5. Wednesday, Thursday and Friday, April 19-21

**ADDRESSES:** The February 16-17 meeting will be held in rooms 5A,B,C, of the Federal Aviation Administration building located at 800 Independence Avenue SW., Washington, DC. The March 23-24 meeting will be held at the Ramada Hotel O'Hare located at 6600 North Mannheim Road, Rosemont, IL 60018. All other meetings will be held in Room 3200 of the Department of Transportation's headquarters building, 400 7th Street SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Cynthia B. Walters, Trial Attorney, Office of Chief Counsel, FRA 400 7th Street SW., Room 8201, Washington, DC 20590 (Telephone: 202-366-0621) or Doug Taylor, Chief Accident Investigation Branch, Office of Safety, FRA 400 7th Street SW., Room 8301, Washington, DC 20590. (Telephone: 202-366-2760).

**SUPPLEMENTARY INFORMATION:** On August 17, 1994 FRA published a notice of intent to establish an Advisory Committee. (59 FR 42200). FRA also published a notice establishing this Committee on January 5, 1995 (60 FR 1761). Consistent with these notices, the continued objective of this Committee is to produce a report, including a draft notice of proposed rulemaking (NPRM) recommending a course of action for