



# PUBLIC NOTICE

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**WIRELESS TELECOMMUNICATIONS BUREAU  
ANNOUNCES RELEASE OF FINAL  
PROGRAMMATIC ENVIRONMENTAL ASSESSMENT OF  
THE ANTENNA STRUCTURE REGISTRATION PROGRAM**

**WT Docket No. 08-61  
WT Docket No. 03-187**

In accordance with the Federal Communications Commission's obligations under the National Environmental Policy Act (NEPA),<sup>1</sup> the Wireless Telecommunications Bureau (WTB) has completed a Final Programmatic Environmental Assessment (PEA) of the Commission's Antenna Structure Registration (ASR) program. WTB conducted the PEA in compliance with the court's decision in *American Bird Conservancy v. FCC*,<sup>2</sup> in which the court held, among other things, that the Commission must perform a programmatic analysis of the impact on migratory birds of registered antenna structures.<sup>3</sup>

Under the ASR program, owners of antenna structures that are taller than 200 feet above ground level or that may interfere with the flight path of a nearby airport must register those structures with the Commission. The antenna structure owner must obtain painting and lighting specifications from the Federal Aviation Administration (FAA) and include those specifications in its registration prior to construction. The ASR program allows the Commission to fulfill its statutory responsibility to require painting and lighting of antenna structures that may pose a hazard to air navigation.<sup>4</sup>

In September 2010, Commission staff began work on a nationwide programmatic environmental assessment to provide a comprehensive analysis upon which to base the Commission's consideration of the environmental effects of future proposed towers. On August 26, 2011, WTB released and sought comments on a draft PEA.<sup>5</sup> The final PEA released today fully considers the comments received.

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<sup>1</sup> 42 U.S.C. § 4321 *et seq.*

<sup>2</sup> 516 F.3d 1027 (D.C. Cir. 2008) (*American Bird Conservancy*).

<sup>3</sup> *Id.* at 1033-34. While the court's decision focused on antenna structures in the Gulf of Mexico region, the PEA addresses the effects of communications towers on migratory birds nationwide.

<sup>4</sup> *See* 47 U.S.C. § 303(q).

<sup>5</sup> Wireless Telecommunications Bureau Seeks Comment and Announces Public Meeting on its Draft Programmatic Environmental Assessment of the Antenna Structure Registration Program, *Public Notice*, WT Docket Nos. 08-61, 03-187, 26 FCC Rcd 13841 (WTB 2011).

The PEA assesses the potential environmental effects, and particularly the effects on migratory birds, of several alternative courses of action. These alternatives include making no changes to the Commission's current environmental compliance procedures, as well as several alternatives that would expand the circumstances under which an environmental assessment (EA) is required for an individual tower. The PEA also considers the possibility that the FAA may revise its permitted lighting configurations in a manner that would reduce the impacts of lighting on migratory birds. The PEA finds that the environmental impact of the ASR program would not be significant at the national level under any of the alternatives considered. The potential for significant impacts to populations of migratory birds, Bald Eagles, or Golden Eagles at the local level would vary depending on the course of action ultimately adopted by the Commission.

WTB intends in the near future to recommend to the Commission a further notice of proposed rulemaking in WT Docket Numbers 08-61 and 03-187 that will invite public comment on what actions the Commission should take to comply with NEPA in light of the analysis in the final PEA.<sup>6</sup> At the conclusion of the rulemaking, based on the findings and possible actions taken therein, the Commission will either issue a Finding of No Significant Impact or initiate further environmental processing.

Pending the conclusion of the rulemaking proceeding, ASR applicants must continue to prepare EAs where required under the Commission's existing rules.<sup>7</sup> Furthermore, the Commission recently adopted an additional interim EA requirement to protect migratory birds, which will become effective following its approval by the Office of Management and Budget (OMB). Under this interim procedure, an EA will be required for any proposed new tower over 450 feet in height above ground level, for replacement or modification of an existing tower over 450 feet in height that involves a substantial increase in size, or for certain delineated changes in lighting to a tower over 450 feet in height.<sup>8</sup>

In the recently adopted *Order on Remand*, the Commission also instituted a pre-application local and national environmental notification process so that members of the public will have a meaningful opportunity to comment on the environmental effects of proposed antenna structures that require registration with the Commission.<sup>9</sup> The revisions to FCC Form 854 to incorporate the environmental notification process, as well as the interim EA requirement, are subject to approval by OMB. The Wireless Telecommunications Bureau will publish in the Federal Register a notice announcing OMB's approval of these requirements and the effective date of the process. In addition, before the rules take effect, the Wireless Telecommunications Bureau will issue a Public Notice providing technical details about the process for submitting the pre-filing notification.

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<sup>6</sup> See *In the Matter of Effects of Communications Towers on Migratory Birds*, WT Docket No. 03-187, *Notice of Proposed Rulemaking*, 21 FCC Rcd 13241 (2006). See also *Opening of Docket in Response to American Bird Conservancy, Inc. v. FCC*, 516 F.3d 1027 (D.C. Cir. 2008), WT Docket No. 08-61, *Public Notice*, 23 FCC Rcd 7163 (WTB 2008).

<sup>7</sup> 47 C.F.R. § 1.1307.

<sup>8</sup> *In the Matter of National Environmental Policy Act Compliance for Proposed Tower Registrations, In the Matter of Effects of Communications Towers on Migratory Birds*, WT Docket Nos. 08-61, 03-187, *Order on Remand*, 26 FCC Rcd 16700, 16730-34, paras. 77-84 (2011) (*Order on Remand*).

<sup>9</sup> *Id.* at 16715-30, paras. 37-76.

The FCC has established a website, <http://www.fcc.gov/pea>, which contains information and downloadable documents relating to the PEA process, including the Final PEA. The website also allows individuals to contact the Commission.

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