

§ 1.1312 Facilities for which no preconstruction authorization is required.

(a) In the case of facilities for which no Commission authorization prior to construction is required by the Commission's rules and regulations the licensee or applicant shall initially ascertain whether the proposed facility may have a significant environmental impact as defined in § 1.1307 of this part or is categorically excluded from environmental processing under § 1.1306 of this part.

(b) If a facility covered by paragraph (a) of this section may have a significant environmental impact, the information required by § 1.1311 of this part shall be submitted by the licensee or applicant and ruled on by the Commission, and environmental processing (if invoked) shall be completed, see § 1.1308 of this part, prior to the initiation of construction of the facility.

(c) If a facility covered by paragraph (a) of this section is categorically excluded from environmental processing, the licensee or applicant may proceed with construction and operation of the facility in accordance with the applicable licensing rules and procedures.

(d) If, following the initiation of construction under this section, the licensee or applicant discovers that the proposed facility may have a significant environmental effect, it shall immediately cease construction which may have that effect, and submit the information required by § 1.1311 of this part. The Commission shall rule on that submission and complete further environmental processing (if invoked), see § 1.1308 of this part, before such construction is resumed.

(e) Paragraphs (a) through (d) of this section shall not apply:

(1) to the construction of mobile facilities

(2) where the deployment of facilities meets the following conditions:

(i) The facilities are mounted on structures 50 feet or less in height including their antennas as defined in § 1.1320(d), or the facilities are mounted on structures no more than 10 percent taller than other adjacent structures, or the facilities do not extend existing structures on which they are located by more than 10 percent;

(ii) Each antenna associated with the deployment, excluding the associated equipment (as defined in the definition of antenna in § 1.1320(d)), fits in an enclosure (or if the antenna is exposed, within an imaginary enclosure, i.e., one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume;

~~(iii) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no larger than necessary for the operation of the small wireless facility; and~~

~~(iiiiv)~~ The facilities do not require antenna structure registration under Part 17 of this chapter; ~~and~~

(iv) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in § 1.1307(b); and

(iii) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no larger than necessary for the operation of the small wireless facility; and but in no case shall such equipment be cumulatively more than [XX] cubic feet in volume.; and

For purposes of paragraph (e)(2), “facilities” and “wireless equipment” means (A) a radio transceiver and antenna at a fixed location that enables wireless communications between user equipment and a communications network, and (B) coaxial or fiber-optic cable located on the wireless structure, regular and backup power supplies, and comparable equipment; but does not include (A) the structure or improvements on, under, within, or adjacent to the structure on which such equipment is collocated; (B) **above-ground or underground wire or coaxial or fiber-optic cable** facilities used to transport communications data **or any other electronic communications** from a wireless facility to a network; or (C) **any other wire or** coaxial or fiber-optic cable that runs between wireless support structures or utility poles or that are otherwise not immediately adjacent to or directly associated with a particular antenna.

[Language in **boldface** is not currently incorporated in an enacted state small cell law.]