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EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
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Washington, D.C.

Federal Communications Commission
Office of the Secretary

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RE: Federal Communications Commission NEPA Implementing Regulations

Dear Mr. Trachtenberg,

Thank you for consulting with the Council on Environmental Quality (CEQ) on the revisions updating the Federal Communications Commission (FCC) NEPA Implementing Regulations to accommodate advances in Distributed Antenna System networks and other small-cell systems and other wireless deployments. Clarifying the applicability and coverage of the categorical exclusions, and addressing certain other aspects of the FCC NEPA process as they apply to temporary facilities, resulted in the following measures with regard to the FCC NEPA process for review of environmental effects at 47 C.F.R. part 1:

- Amend the existing NEPA categorical exclusion for antenna collocations on buildings and towers to clarify that it includes equipment associated with the antennas (such as wiring, cabling, cabinets, or backup-power), and that it also covers collocations in a building's interior;
- Amend the NEPA categorical exclusion for collocations to cover collocations on structures other than buildings and towers;
- Adopt a new NEPA categorical exclusion for deployments, including deployments of new poles, in utility or communications rights-of-way that are in active use for such purposes, where the deployment does not constitute a substantial increase in size over the existing utility or communications uses; and
- Adopt a new exemption from the FCC's Antenna Structure Registration public notification requirements for proposed temporary antenna structures that meet certain criteria, including limits on the size and duration of the installation, and that do not require an Environmental Assessment.

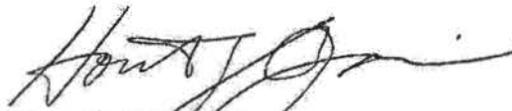
The CEQ regulations require that the FCC review its NEPA policies and procedures and, in consultation with CEQ, revise them as necessary to ensure full compliance with the purposes and provisions of NEPA (40 C.F.R. § 1507.3). The FCC published the proposal to revise its categorical exclusions in its NEPA implementing regulations for public review and comment (Federal Register, Vol. 78, No. 73144, Thursday, December 5, 2013; *Notice of Proposed Rulemaking*, 28 FCC Rcd 14238,

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14253-57 paras. 36-52, 14267-72 paras 78-89 (2013)). The consultation with CEQ on the proposed changes took the public comments into consideration and has concluded.

The FCC considered the potential environmental impacts of the activities covered by these new categorical exclusions, as well as the public comments received, and determined that the activities included in the categorical exclusion would not normally involve individually or cumulatively significant impacts on the environment and therefore, would not require additional NEPA analysis and documentation unless extraordinary circumstances exist (40 C.F.R. § 1508.4).

CEQ concludes that adding these categorical exclusions to the FCC's NEPA implementing procedures and the exemption from the public notification process are in conformance with NEPA and the CEQ regulations (attached revisions to 47 C.F.R. §§ 1.1306 and 1.1307, and 47 C.F.R. § 17.4). These revisions will take effect thirty days after Federal Register publication of the FCC action accepting the revised NEPA implementing regulations.



Horst G. Greezmiel
Associate Director for NEPA Oversight

Attached: Amendments to 47 C.F.R. parts 1 and 17.

ATTACHMENT

The Federal Communications Commission amended 47 C.F.R. parts 1 and 17 as follows:

PART 1 – PRACTICE AND PROCEDURE

1. The authority citation for Part 1 is amended to read as follows:

AUTHORITY: 15 U.S.C. 79, *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, and 1455.

2. Section 1.1306 is amended by revising NOTE 1 and adding NOTE 4 to read as follows:

§ 1.1306 Actions which are categorically excluded from environmental processing.

* * * * *

NOTE 1: The provisions of § 1.1307(a) of this part requiring the preparation of EAs do not encompass the mounting of antenna(s) and associated equipment (such as wiring, cabling, cabinets, or backup-power), on or in an existing building, or on an antenna tower, or other man-made structure, unless § 1.1307(a)(4) of this part is applicable. Such antennas and associated equipment are subject to § 1.1307(b) of this part and require EAs if their construction would result in human exposure to radiofrequency radiation in excess of the applicable health and safety guidelines cited in § 1.1307(b) of this part. The provisions of § 1.1307 (a) and (b) of this part do not encompass the installation of aerial wire or cable over existing aerial corridors of prior or permitted use or the underground installation of wire or cable along existing underground corridors of prior or permitted use, established by the applicant or others. The use of existing structures or corridors is an environmentally desirable alternative to the construction of new facilities and is encouraged. The provisions of § 1.1307(a) and (b) of this part do not encompass the construction of new submarine cable systems.

* * * * *

NOTE 4: Unless § 1.1307(a)(4) of this part is applicable, the provisions of § 1.1307(a) of this part requiring the preparation of EAs do not encompass the construction of wireless facilities, including deployments on new or replacement poles, if: (1) the facilities will be located in a right-of-way that is designated by a Federal, State, local, or Tribal government for communications towers, above-ground utility transmission or distribution lines, or any associated structures and equipment; (2) the right-of-way is in active use for such designated purposes; and (3) the facilities would not (i) increase the height of the tower or non-tower structure by more

than 10% or twenty feet, whichever is greater, over existing support structures that are located in the right-of-way within the vicinity of the proposed construction; (ii) involve the installation of more than four new equipment cabinets or more than one new equipment shelter; (iii) add an appurtenance to the body of the structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater (except that the deployment may exceed this size limit if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable); or (iv) involve excavation outside the current site, defined as the area that is within the boundaries of the leased or owned property surrounding the deployment or that is in proximity to the structure and within the boundaries of the utility easement on which the facility is to be deployed, whichever is more restrictive. Such wireless facilities are subject to § 1.1307(b) of this part and require EAs if their construction would result in human exposure to radiofrequency radiation in excess of the applicable health and safety guidelines cited in § 1.1307(b) of this part.

3. Section 1.1307 is amended by adding a NOTE to paragraph (a)(4) to read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

NOTE: The requirements in paragraph (a)(4) of this section do not apply to:

(a) The mounting of antennas (including associated equipment such as wiring, cabling, cabinets, or backup-power) on existing utility structures (including utility poles and electric transmission towers in active use by a "utility" as defined in Section 224 of the Communications Act, 47 U.S.C. 224, but not including light poles, lamp posts, and other structures whose primary purpose is to provide public lighting) where the deployment meets the following conditions:

(1) All antennas that are part of the deployment fit within enclosures (or if the antennas are exposed, within imaginary enclosures) that are individually no more than three cubic feet in volume, and all antennas on the structure, including any pre-existing antennas on the structure, fit within enclosures (or if the antennas are exposed, within imaginary enclosures) that total no more than six cubic feet in volume;

(2) All other wireless equipment associated with the structure, including pre-existing enclosures and including equipment on the ground associated with antennas on the structure, are cumulatively no more than seventeen cubic feet in volume, exclusive of

(A) Vertical cable runs for the connection of power and other services;

(B) Ancillary equipment installed by other entities that is outside of the applicant's ownership or control, and

(C) Comparable equipment from pre-existing wireless deployments on the structure;

(3) The deployment will involve no new ground disturbance; and

(4) The deployment would otherwise require the preparation of an EA under paragraph (a)(4) of this section solely because of the age of the structure; or

(b) The mounting of antennas (including associated equipment such as wiring, cabling, cabinets, or backup-power) on buildings or other non-tower structures if:

(1) There is an existing antenna on the building or structure;

(2) One of the following criteria is met:

(A) *Non-Visible Antennas*. The new antenna is not visible from any adjacent streets or surrounding public spaces and is added in the same vicinity as a pre-existing antenna;

(B) *Visible Replacement Antennas*. The new antenna is visible from adjacent streets or surrounding public spaces, provided that (i) it is a replacement for a pre-existing antenna, (ii) the new antenna will be located in the same vicinity as the pre-existing antenna, (iii) the new antenna will be visible only from adjacent streets and surrounding public spaces that also afford views of the pre-existing antenna, (iv) the new antenna is not more than 3 feet larger in height or width (including all protuberances) than the pre-existing antenna, and (v) no new equipment cabinets are visible from the adjacent streets or surrounding public spaces; or

(C) *Other Visible Antennas*. The new antenna is visible from adjacent streets or surrounding public spaces, provided that (i) it is located in the same vicinity as a pre-existing antenna, (ii) the new antenna will be visible only from adjacent streets and surrounding public spaces that also afford views of the pre-existing antenna, (iii) the pre-existing antenna was not deployed pursuant to the exclusion in this subsection (47 C.F.R. § 1.307(a)(4), Note (b)(2)(c)), (iv) the new antenna is not more than three feet larger in height or width (including all protuberances) than the pre-existing antenna, and (v) no new equipment cabinets are visible from the adjacent streets or surrounding public spaces;

- (3) The new antenna complies with all zoning conditions and historic preservation conditions applicable to existing antennas in the same vicinity that directly mitigate or prevent effects, such as camouflage or concealment requirements;
- (4) The deployment of the new antenna involves no new ground disturbance; and
- (5) The deployment would otherwise require the preparation of an EA under paragraph (a)(4) of this section solely because of the age of the structure.

For purposes of this Note, a non-visible new antenna is in the "same vicinity" as a pre-existing antenna if it will be collocated on the same rooftop, façade or other surface. For purposes of this Note, a visible new antenna is in the "same vicinity" as a pre-existing antenna if it is on the same rooftop, façade, or other surface and the centerpoint of the new antenna is within ten feet of the centerpoint of the pre-existing antenna. For purposes of this Note, a deployment causes no new ground disturbance when the depth and width of previous disturbance exceeds the proposed construction depth and width by at least two feet.

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PART 17 – CONSTRUCTION, MARKING, AND LIGHTING OF ANTENNA STRUCTURES

5. The authority citation for Part 17 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 309, 48 Stat. 1081, 1085 as amended; 47 U.S.C. 301, 309.

6. Section 17.4 is amended by revising paragraphs (c)(1)(v) and (c)(1)(vi), and adding paragraph (c)(1)(vii) to read as follows:

§ 17.4 Antenna structure registration.

* * * * *

(c) * * *

(1) * * *

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(v) For any other change that does not alter the physical structure, lighting, or geographic location of an existing structure;

(vi) For construction, modification, or replacement of an antenna structure on Federal land where another Federal agency has assumed responsibility for evaluating the potentially significant environmental effect of the proposed antenna structure on the quality of the human environment

and for invoking any required environmental impact statement process, or for any other structure where another Federal agency has assumed such responsibilities pursuant to a written agreement with the Commission (*see* §1.1311(e) of this chapter); or

(vii) For the construction or deployment of an antenna structure that will (A) be in place for no more than 60 days, (B) requires notice of construction to the FAA, (C) does not require marking or lighting under FAA regulations, (D) will be less than 200 feet in height above ground level, and (E) will either involve no excavation or involve excavation only where the depth of previous disturbance exceeds the proposed construction depth (excluding footings and other anchoring mechanisms) by at least two feet. An applicant that relies on this exception must wait 30 days after removal of the antenna structure before relying on this exception to deploy another antenna structure covering substantially the same service area.