



NEWS

Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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NEWS MEDIA CONTACT:
Chelsea Fallon: (202) 418-7991

FCC SEEKS COMMENT ON POSSIBLE MEASURES TO REDUCE MIGRATORY BIRD COLLISIONS WITH COMMUNICATIONS TOWERS

Washington, D.C. – Today, the Federal Communications Commission (FCC) adopted a Notice of Proposed Rule Making (Notice) that seeks comment on whether the FCC should take measures to reduce the number of migratory bird collisions with communications towers.

In August 2003, the FCC released a Notice of Inquiry (NOI) that sought information on the impact of communications towers on migratory birds. Building on the record developed in response to that NOI, today's Notice seeks comment on the extent of the effects of communications towers on migratory birds, as well as various legal, substantive, and procedural issues related to adopting measures to diminish migratory bird collisions with communications towers.

First, today's Notice seeks comment on the FCC's legal authority to adopt regulations related to migratory bird collisions with towers. The FCC tentatively concludes that its obligation under the National Environmental Policy Act (NEPA) to consider the environmental effects of the actions it authorizes may provide a basis for such regulations. The NPRM also asks whether the available scientific evidence is sufficient to demonstrate that communications towers are having a significant impact on migratory birds. In addition, the FCC seeks comment on its responsibilities under the Migratory Bird Treaty Act (MBTA) and on whether the MBTA gives any government agency other than the Department of the Interior authority to enforce its terms.

Next, today's Notice requests information on the role of tower lighting in migratory bird collisions. The FCC tentatively concludes, consistent with a guidance memorandum issued by the Federal Aviation Administration, that medium intensity white strobe lights at night are preferred over red obstruction lighting systems, to the extent possible without compromising aircraft navigation safety. The Notice also seeks comment on the possible use of other lighting systems that could similarly minimize bird-tower collisions.

Additionally, the FCC solicits input on the role of other tower factors – such as tower height, tower location, the use of guy wires, and the collocation of new antennas on existing towers – on migratory bird collisions, and requests comment on whether to adopt regulations in these areas to protect migratory birds. The Notice inquires, among other things, whether adoption of a preference for medium intensity white strobe lights might preclude need for these additional measures. With regard to the possible regulation of guy wires and tower height,

today's Notice asks whether such measures would have an adverse effect on environmental matters unrelated to migratory birds, such as historic properties, wetlands, or endangered species.

Finally, today's Notice seeks comment on whether the FCC should amend its rules to require tower applicants to prepare an environmental assessment if a proposed tower or antenna facility may affect migratory birds.

Action by the Commission on November 3, 2006, by Notice of Proposed Rulemaking (FCC 06-164). Chairman Martin and Commissioners Copps, Adelstein, Tate, and McDowell. Separate statements issued by Commissioners Copps, Adelstein, and McDowell.

For additional information, contact Louis Peraertz at (202) 418-1879 or Louis.Peraertz@fcc.gov, or Jeffrey Steinberg at (202) 418-0896 or Jeffrey.Steinberg@fcc.gov.

WT Docket No. 03-187.

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