

The Do's and Don'ts of Tower Regulation



Ted Hammerman, Esq. is a communications attorney who focuses on regulatory and transactional matters affecting the tower industry. He is a regular contributor to *Tower Times*. For further information, Ted can be contacted at Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, N.W., Washington, D.C. 20037; Tel: 202-861-9139; Email: HammermanT@dsmo.com

Photo Courtesy of Elite Wireless, Inc.

Q on Wednesday, February 20, 2002 at 8:00 a.m., Kim Silva, an Enforcement Specialist from the Federal Communications Commission (FCC), and I gave a presentation at NATE's 7th Annual Conference & Exposition on "The Do's And Don'ts of Tower Regulation."

We were excited to kick off the first educational session of NATE's series, and tried to make that hour worthwhile for a standing room only crowd of more than 266 attendees. In one hour, Kim and I gave NATE members and attendees an overview of The Do's and Don'ts of Tower Regulation as they relate to tower erecting, maintenance and service companies. We explained what transmission facilities could be constructed without authorization by the Federal Communications Commission and what activities constitute unauthorized premature construction in violation of federal law.

Over the next several issues of *Tower Times*, I intend to take portions of our presentation and convert them into short, subject specific articles to give you quick guides to assist you in making the right decisions when considering regulations with respect to tower construction. Each article will also illustrate how you can provide value to your customers by learning and understanding those rules. Follow-up articles will also spend time explaining the consequences of non-compliance. These articles will be limited to the do's and don'ts of tower regulations from an FCC and FAA perspective.

FCC Oversight

FCC Field Offices focus their enforcement efforts towards public safety and other technical issues. It conducts regular inspections or special investigations to ensure licensee compliance with safety regulations. Its investigations and

inspections may lead to notices of violation, forfeiture proceedings, consent decrees, or in rare instances license



revocation. One of the FCC's key activities is the enforcement of antenna lighting and tower structure requirements.

Through firm, fast, flexible and fair enforcement of the Communications Act and the FCC's rules, the FCC endeavors to promote competition, protect consumers and foster efficient use of the spectrum while furthering public safety goals.

FCC Field Offices

In Tampa, Florida the FCC office is composed of engineers and compliance specialists. While the Tampa office heads up tower compliance and enforcement nationwide, resident agent offices can be found throughout the country.

The FCC has three Regional Offices, sixteen District Offices, and nine Resident Agent Offices located across the United States.

The FCC's three Regional Offices, covering the Northeast, South Central, and Western regions of the nation are located in Chicago, Illinois; Kansas City, Missouri; and San Francisco, California, respectively.

The sixteen District Offices are located in Atlanta, Georgia; Boston, Massachusetts; Chicago, Illinois; Columbia, Maryland; Dallas, Texas; Denver, Colorado; Detroit,

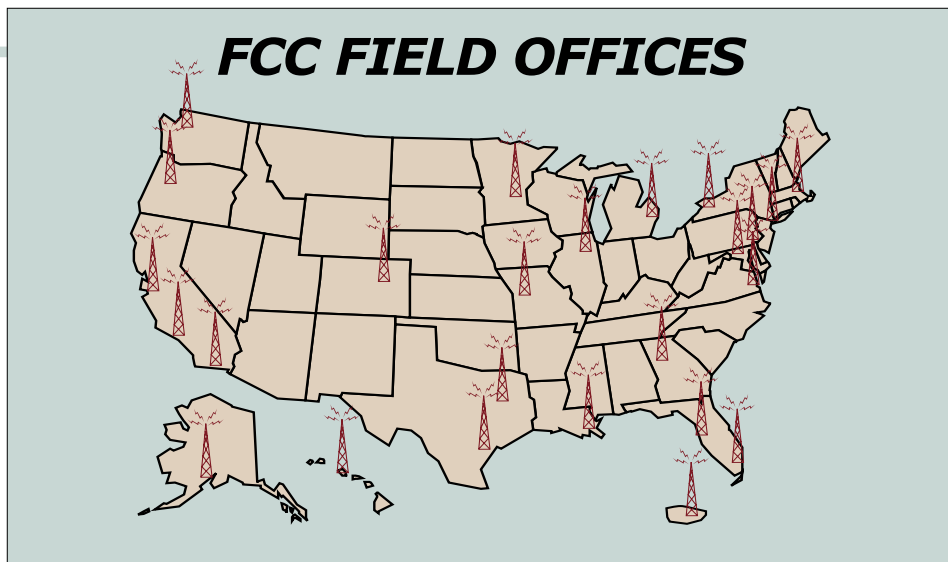
Michigan; Kansas City, Missouri; Los Angeles, California; New Orleans, Louisiana; New York, New York; Philadelphia, Pennsylvania; San Diego, California; San Francisco, California; Seattle, Washington; and Tampa, Florida.

The nine Resident Agent Offices are located in Anchorage, Alaska; Buffalo, New York; Honolulu, Hawaii; Houston, Texas; Miami, Florida; Norfolk, Virginia; Portland, Oregon; Saint Paul, Minnesota; and San Juan, Puerto Rico.

FCC Requirements

The Federal Communications Commission has a number of requirements that apply to tower sites. These include requirements for painting, lighting, fencing and registering towers. They also include requirements for controlling the level of human exposure to radio frequency energy, for protecting nearby receivers from blanketing interference, and for protecting nearby AM stations from interference to their signals. Any proposed or existing tower requiring notice of proposed construction to the FAA must register the structure. After an antenna structure is registered, the Antenna Structure Registration Number must be conspicuously and clearly posted at the base of antenna structure.

The owner must, or the manager can, file the registration. The person filing the registration form is responsible for ensuring that information provided is correct. While the owner is ultimately responsible, it is in a manager's best interest to know and understand these responsibilities. It provides value for your services. When the tower owner receives the FCC's antenna structure registration, FCC Form 854R, a copy shall be pro-



vided to each tenant licensee and permittee. And if you're managing a site, ask the owner for one. It's never a bad idea to keep that information readily available or on site if possible. Ask for one before beginning construction to avoid liability.

The tower owner is responsible to ensure ownership information is current. If the FCC discovers that the ownership information it has in its database is not current, a Notice of Violation will be issued to the owner. As managers of towers or maintainers of a sites, it's a good idea to keep informed of current ownership information too.

Antenna Structure Registration Process

To register an antenna structure use current FCC Form 854 (December 2001). In 1995, the FCC adopted new rules that shifted the primary responsibility for painting and lighting radio towers from FCC licensees to tower owners. The new rules require tower owners that require Federal Aviation Administration ("FAA") approval to register their structures with the FCC. All tower registrations (broadcast, cellular, etc.) are maintained in a single, comprehensive database that is available to the general public. Tower owners

may register electronically or by conventional mail. Go to <http://wireless.fcc.gov/antenna> for more information.

It typically takes one week to receive the Tower Registration from the FCC when filing a hard copy. If filed electronically, then there is a 98% chance that the registration will be granted automatically that same day. Although information shared in this article can be used to determine government guidelines for a particular tower, be aware that the specific requirements for any particular tower are specified by the FCC on the tower registration. Any individual tower could have special circumstances that would cause the FCC to specify painting or lighting requirements that differ slightly from the general government guidelines. Therefore, before painting and lighting a tower, a tower owner should always check the tower registration to be sure that no special requirements have been assigned.

T