

# New Wireless Infrastructure Rules to Take Effect in Phases

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The new FCC rules adopted in October 2014 promoting more rapid wireless infrastructure deployments will begin taking effect next month, but not all key provisions will be following the same schedule. In the [Report and Order](#) we blogged on [last fall](#), the Commission took steps to streamline the review process and reduce the regulatory burdens associated with wireless deployments, particularly distributed antenna system (DAS) networks and other small-cell systems. Further, the new rules clarify the statutory requirements related to State and local government review of new infrastructure requests.

Many of the new rules are scheduled to take effect in the second week of February 2015. But the entities the rules are designed to benefit will have to wait before the rules take full effect. The FCC delayed implementation of several of the significant changes to the wireless infrastructure deployment process and others are subject to review by the Office of Management and Budget (OMB), which could take months.

Any company seeking to construct new towers or similar structures or deploy antennas on existing buildings and structures for its own wireless services or those of third-parties should be aware of the various effective dates for the new rules and be prepared to comply. Below is a breakdown of the principal rules changes and their corresponding effective dates.

## **Effective February 9, 2015:**

- The EA rules identifying actions that trigger the need for a company to complete an EA were updated to state that the EA requirements do not apply to certain wireless deployments, such as mounting an antenna and associated equipment on existing utility structures, buildings or other non-tower structures, when certain criteria are satisfied.
- Certain wireless facilities, including deployments on new or replacement poles, no longer require an Environmental Assessment (EA) if the facility is located in an active Federal, State, local or Tribal right-of-way and the facility meets certain height, size and location criteria.

## **Effective April 8, 2015:**

- The rule providing that Antenna Structure Registrations (ASR) are no longer required for construction, modification or replacement of an antenna structure on Federal land where another Federal agency has assumed responsibility for assessing the environmental effect will take effect two months after the rules described above.
- The new Subpart CC of the rules governing State and local review of applications for wireless service facility modification is also delayed sixty days. These rules implement Section 6409 of

the Spectrum Act ( 47 U.S.C. 1455), which directs State or local governments to approve any eligible request for modification of an existing tower or base station that “does not substantially change” the physical dimensions of the structure.

### **Effective Date Dependent on OMB Approval**

- The new 60-day “deemed granted” remedy for companies when the State or local reviewing body fails to act in a timely fashion on eligible facilities modification requests – those that do not substantially change the physical dimensions of the antennas structure –will not take effect OMB approval. The FCC will provide a subsequent announcement in the Federal Register to provide the effective date. In the meantime, companies must wait for actual approval.
- The new rules stating that temporary structures do not require an ASR if they will meet all of the following criteria will not take effect until the OMB completes its review: not be in place for more than sixty days, not require marking and lighting under FAA regulations, are less than 200 feet in height, *and* involve no new excavation. A subsequent Federal Register notice will announce the effective date. In the meantime, companies may construct such temporary structures without an ASR pursuant to the FCC’s [interim waiver](#).