

(vi) *Restriction*: Disposal shall be limited to dredged material from Long Island Sound and vicinity.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[WT Docket No. 03-187; FCC 03-205]

Effects of Communications Towers on Migratory Birds

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission ("Commission") initiates an inquiry to gather comment and information on the impact that communications towers may have on migratory birds. The Commission seeks information that is supported by evidence concerning the number of migratory bird collisions with communications towers and the role that specific factors associated with communications towers may have in increasing or decreasing the incidence of such collisions. The Commission further requests information on whether any current or proposed research may provide useful data regarding the subjects of this inquiry, and what other actions may be necessary to spur additional, necessary research. The Commission also seeks comment on whether certain measures might minimize any adverse impacts of communications tower siting and construction on migratory birds, whether any such measures are supported by adequate and reliable empirical and/or scientific evidence, and how the use of such measures may affect the ability of licensees and other parties to provide efficient and reliable communications services.

DATES: Comments are due on or before November 12, 2003 and reply comments are due on or before December 11, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for further filing instructions.

FOR FURTHER INFORMATION CONTACT: G. William Stafford at (202) 418-0563.

SUPPLEMENTARY INFORMATION: This is a summary of the Notice of Inquiry ("NOI") in WT Dkt. No. 03-187, FCC 03-205, adopted August 8, 2003, and

released August 20, 2003. The NOI seeks comment and information on the impact that communications towers may have on migratory birds. The full text of the NOI is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The Notice of Inquiry may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. To request the NOI in accessible formats for people with disabilities, send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0531 (voice), (202) 418-7365 (tty).

I. Introduction

1. The Commission is initiating the inquiry to gather comment and information on the impact that communications towers may have on migratory birds. As explained, we seek information that is supported by evidence concerning the number of migratory bird collisions with communications towers and the role that specific factors associated with communications towers may have in increasing or decreasing the incidence of such collisions. Such factors may include lighting, height, and particular type of antenna structure (including guyed and unguyed structures), meteorological conditions, location, physiographic features of sites, and known migratory bird migration corridors. We further request information on whether any current or proposed research may provide useful data regarding the subjects of this inquiry, and what other actions may be necessary to spur additional, necessary research. We also seek comment on whether certain measures might minimize any adverse impacts of communications tower siting and construction on migratory birds, whether any such measures are supported by adequate and reliable empirical and/or scientific evidence, and how the use of such measures may affect the ability of licensees and other parties to provide efficient and reliable communications services. Depending on the record developed in this proceeding, the Commission will consider whether the current state of research would support further action by the Commission in this area, including possible amendments of its environmental rules. See 47 CFR 1.1301-1.1319.

2. This inquiry is designed to gather comments on scientific research and other related data relevant to migratory bird collisions with communications towers, and on whether such research would support changes within the structure of our current rules and processes specifically related to protection of migratory birds.

II. Background

3. Communications towers and other structures that support antennas provide the infrastructure for services licensed by the Commission, including broadcast television and radio, cellular, Personal Communications Service (PCS), Specialized Mobile Radio (SMR), and other advanced and emerging services. Communications towers also are used for the provision of private radio services used by business and government, and for public safety purposes.

4. Migratory birds breed throughout the United States and Canada and, in the fall of each year, migrate to the southern United States, Mexico, and Central and South America for the winter. Currently, 836 species are on the list of migratory birds maintained by the United States Fish and Wildlife Service (FWS). Birds that have been documented as vulnerable to collisions with communications towers include approximately 350 species of neotropical migratory songbirds, which generally migrate at night and may be most susceptible to collisions with lit towers on nights with low visibility due to fog, rain, or low cloud ceilings. At least one researcher has suggested that an estimated four to five million birds or more may be killed each year due to collisions with communications towers. Reports of bird deaths at single locations on a single day have included instances involving hundreds or even thousands of birds. However, to our knowledge there have been no studies sufficient to support a reliable estimate of the number of migratory birds that may have died as a result of collisions with an extensive number of communications towers located, for example, over wide geographic areas. In addition, while some literature suggests that certain factors—such as tower height, lighting systems, type of antenna support structure, and location—may increase or decrease the hazards that towers pose to migratory birds, there does not appear to be systematic research on an adequate scale regarding exactly how and to what extent, if at all, these factors contribute to any risk to migratory birds.