



RWA Member Briefing

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To: Rural Wireless Association Membership

From: Carri Bennet, RWA General Counsel
Erin P. Fitzgerald, RWA Regulatory Counsel
(legal@ruralwireless.org)

SMALL ENTITY INPUT SOUGHT ON PROPOSED CONSTRUCTION//MAINTENANCE RULES FOR TELECOMMUNICATIONS STRUCTURES

The Small Business Administration (SBA) and the Occupational Safety and Health Administration (OSHA) are actively seeking small entity representatives to serve on a panel to review and comment on the scope of OSHA's contemplated rulemaking proceeding concerning construction and maintenance activities on telecommunications structures.

Participation on this panel offers an opportunity to provide concerns and recommendations early in the process and prior to the publication of any proposed new rules governing construction/maintenance activities on telecommunications structures.

SMALL ENTITY REPRESENTATIVE REQUEST PROCESS

OSHA has notified SBA's Office of Advocacy (Advocacy) and the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) of its intention to convene a Small Business Advocacy Review (SBAR) panel in the next sixty (60) days under the Small Business Regulatory Enforcement Fairness Act (SBREFA) to consider new standards governing the construction/maintenance of telecommunications structures. OSHA is required to convene a panel when its proposal is expected to have a significant impact on a substantial number of small entities. Under the SBREFA, OSHA must first convene the SBAR panel before publishing any proposed rules.

Advocacy will recommend specific small entity representatives to consult on the effects of any proposed rules. The SBAR panel will consist of OSHA officials, Advocacy's Chief Counsel and OIRA officials. The SBAR panel will review any draft proposed rules and related analysis prepared by OSHA, listen to comments from the small entity representatives, and submit a written report to OSHA within 60 days. OSHA may then revise and publish proposed rules along with the SBAR panel's report in the *Federal Register*. This starts the formal rulemaking process.

Advocacy seeks small entity representatives who will be affected by the contemplated rules. To participate on the SBAR panel, companies must submit information as soon as possible. Small entity representatives can include small businesses, small non-profit organizations, or small governments. *If you are interested in participating in the panel as a small entity representative, please let us know as soon as possible so that we may confirm whether your business meets the small business requirements, and provide the required information to SBA's Advocacy.*



BACKGROUND ON OSHA’S CONTEMPLATED RULES/STANDARDS

OSHA’S intention to propose new standards stems from concerns of employee safety risks in construction/maintenance activities on telecommunications structures. In 2015, OSHA issued a Request for Information (RIF) seeking comments from wireless carriers and all parties involved in the contracting chain (i.e., engineering firms, tower owners, tower construction companies, and technicians) on regulatory and non-regulatory actions that would address the hazards associated with work on telecommunication structures. In the RIF, OSHA indicated that while the number of employees engaged in the communication tower industry remains small, the fatality rate is very high. Moreover, OSHA asserted that communication tower construction/maintenance activities are not adequately covered by current OSHA fall protection and personnel hoisting standards.

As indicated in the RFI, OSHA plans to revise the standards to clarify the safety responsibilities regarding tower work, structural considerations and Radio Frequency hazards. Based on its review of the information provided by the public, OSHA stated its intention to take action to address the hazards and risks. OSHA’s notice to convene an SBAR panel is the first step in the process.

SCOPE OF POTENTIAL NEW STANDARDS

OSHA is considering a potentially broad new standard that would cover all work performed on dedicated wireless telecommunications structures and wireless telecommunications work performed on other structures, including rooftops, water towers, or electric or telephone utility structures. All work on wireless telecommunications towers, including their antennas and antenna-supporting structures would be covered, as well as work on non-tower structures for the purposes of installing, servicing, or maintaining wireless telecommunications equipment. At this time, OSHA has no plans to exclude any specific industries or structure types from the scope of the wireless telecommunications standard. The scope of OSHA’s contemplated rules could also cover a number and variety of multi-employers, and govern relationships and required exchanges of information between structure owners, wireless operators, lessees, lessors, contractors, and subcontractors.

STATE OF THE LAW

Current OSHA Regulation

At present, OSHA standards do not provide comprehensive coverage of communication tower construction activities. OSHA’s standards for construction generally require the use of fall protection at heights of six feet and only cover some situations but not the construction of new communication towers. Maintenance work on communication towers is governed by OSHA’s general industry standards which cover work conditions, practices, means, methods, operations, and installations performed on communication towers. This standard mainly requires employers



to provide training in precautions and safety practices and requires fall protection when work is performed more than four feet above ground on poles and towers.

Industry Standards

Several industry consensus standards do address hazards in the erection, construction, and maintenance of communication towers. Specifically, Telecommunications Industry Association (TIA) standard TIA-222-G, *Structural Standard for Antenna Supporting Structures and Antennas*, addresses the structural design elements associated with the fabrication of new, and the modification of existing, antenna-supporting structures. The TIA-1019-A standard, *Standard for Installation, Alteration and Maintenance of Antenna Supporting Structures and Antennas*, addresses the loading of communication towers under construction and the use of specialized equipment, including gin poles, hoists, and temporary guys. In addition, ANSI is currently developing a standard, ANSI A10.48, which will address safety practices for the construction/maintenance of communication towers.

State Laws

According to OSHA, and because of multiple fatality incidents, two states have adopted standards governing communication tower construction and maintenance, North Carolina and Michigan. North Carolina's standard (Docket ID OSHA-2014-0018-03), which became effective in 2005, covers the construction, alteration, repair, operation, inspection and maintenance of communication towers and includes provisions for employer responsibilities, fall protection systems, and employee training. The Michigan standard (Docket ID OSHA-2014-0018-02), promulgated in 2009, governs construction, alteration, repair, operation, inspections, maintenance, and demolition activities on communication towers. It also contains provisions on fall protection, emergency response protocols, training, and hazard identification.

CONCLUSION

Because of the broad scope of OSHA's contemplated standards, this unique opportunity to participate with the panel provides companies that will be impacted by such standards the ability to participate and comment before such rules are even released.

If you have any questions regarding the HAC Order, please email us at legal@ruralwireless.org or call Erin Fitzgerald (202-551-0060) or Carri Bennet (202-551-0010).