

**Before the  
U.S. DEPARTMENT OF INTERIOR, FISH AND WILDLIFE SERVICE  
Falls Church, VA 22041**

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In the Matter of	)	
	)	
	)	Docket No. FWS-HQ-NWRS-2019-0017
Streamlining U.S. Fish and Wildlife Service	)	
Permitting of Rights-of-Way	)	RIN: 1018-BD78
	)	

**COMMENTS OF THE WIRELESS INFRASTRUCTURE ASSOCIATION**

**I. INTRODUCTION**

The Wireless Infrastructure Association (“WIA”)<sup>1</sup> appreciates this opportunity to provide further input on the Fish and Wildlife Service’s (“FWS” or “Service”) proposal to revise and streamline its regulations for permitting in the Right of Way (“ROW”) (“*Proposed Rule*”).<sup>2</sup> Siting telecommunications infrastructure across federally managed lands, including those managed by the FWS, will be critical to bring connectivity to rural Americans. Accordingly, WIA has long supported these efforts to streamline ROW permitting, including filing comments in the previous iteration of this rulemaking.<sup>3</sup>

WIA is encouraged to see the Administration’s continued focus on this important issue. However, the *Proposed Rule* does not appear to consider the practical business and deployment relationships in the wireless ecosystem, which may result in final rules that could discourage

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<sup>1</sup> WIA is the principal organization representing companies that build, design, own, and manage telecommunications facilities throughout the world. Its members include infrastructure providers, telecommunications carriers, and professional services firms.

<sup>2</sup> Streamlining U.S. Fish and Wildlife Service Permitting of Rights-of-Way Across National Wildlife Refuges and Other U.S. Fish and Wildlife Service-Administered Lands, 88 Fed. Reg. 47442 (July 24, 2023) [hereinafter *Proposed Rule*].

<sup>3</sup> Comments of the Wireless Infrastructure Association, (Mar. 23, 2021) <https://www.regulations.gov/comment/FWS-HQ-NWRS-2019-0017-0012>.

telecommunications deployment on FWS managed lands—and therefore potentially leave holes in vital communications coverage. WIA supports the Service’s goal of creating modern and clear rules for siting infrastructure, but the *Proposed Rule* may introduce unintended barriers to deployment if not clarified prior to this rule being adopted.

Accordingly, WIA urges the FWS to revise provisions in Section 29.21-8 of the *Proposed Rule*, which provides the terms and conditions for permittees.<sup>4</sup> WIA’s members are concerned with provisions that appear to restrict colocation for entities who build and maintain the underlying infrastructure—neutral host providers. These neutral hosts are often distinct from the service providers utilizing the federal spectrum licenses on the Facility. FWS should ensure that its rules enable neutral host providers to apply for permits to site Communications Facilities on FWS managed land.

## **II. THE MODERN WIRELESS INDUSTRY HAS THRIVED, AND CONSUMERS AND THE ENVIRONMENT HAVE BENEFITTED FROM, A NEUTRAL-HOST, COLOCATION-FIRST MODEL OF FACILITIES SITING**

Over the past decade, largely around the advent of the fourth generation of mobile telecommunications (“4G”), mobile service providers have significantly reduced the amount of underlying infrastructure that they build and own.<sup>5</sup> Instead, providers prefer to lease space from neutral host providers, also sometimes referred to as tower companies, that own and operate the underlying structures. Neutral hosts are experienced in planning facilities in compliance with infrastructure siting requirements and applicable FCC rules. Where infrastructure already exists with the capacity to add additional wireless facilities, providers can efficiently site additional wireless facilities on that structure, often referred to as colocating, which lessens permitting

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<sup>4</sup> Proposed Rule at 47449 – 4751.

<sup>5</sup> See WIA, *REIT Supported Wireless Infrastructure: Foundation of the Mobile Economy*, (May 23, 2017) <https://wia.org/wp-content/uploads/REIT-Supported-Wireless-Infrastructure-2017.pdf>.

burdens and reduces visual clutter. When a provider needs to place facilities where there is no facility in place or remaining capacity on existing infrastructure, the wireless service providers will generally approach a neutral host provider to build the tower or other facility for them. This mutually beneficial relationship has enabled the explosive growth of telecommunications networks in the United States by allowing carriers to focus investments on deploying and improving network facilities while avoiding sunk infrastructure costs.

Colocation, and the neutral host model generally, has been a boon for consumers, regulators, and the industry. A neutral host provider generally makes space on the tower available to multiple providers which saves time and money while reducing environmental impact in network deployment. As we have seen, colocation allows carriers to invest a significant amount of capital in expanding and enhancing their networks. Further, the availability of neutral hosts increases wireless service competition by lowering barriers to entry and allowing new providers to quickly scale-up services. In addition to supporting environmental sustainability, these efficiencies directly benefit consumers by driving down costs through both lower overhead and increased competition. Finally, a neutral host can centralize the approval and permitting process to reduce the burden on regulators evaluating these applications.

### **III. THE PROPOSED RULES DO NOT RECOGNIZE THE NEUTRAL HOST MODEL AND MUST BE REVISED TO ACCOUNT FOR MODERN WIRELESS FACILITY SITING PRACTICES**

The neutral host model has been recognized and supported by many federal programs targeted at improving mobile services.<sup>6</sup> Relevant to this proceeding, Congress recognized the

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<sup>6</sup> *See, e.g.*, Consolidated Appropriations Act 2018, Pub. L. 115-141 at Title VI (directing federal agencies to support telecommunications infrastructure deployment on federal lands); Middle Class Tax Relief and Job Creation Act, Pub. L. 112-96 (creating the First Responders Network Authority and directing deployments to colocate to the maximum extent practicable).

diversity of neutral hosts by adopting a broad definition of Communications Facility in the Mobile NOW Act.<sup>7</sup> In that law, which the FWS cites in the *Proposed Rule*, a Communications Facility Installation includes not just the transmitting device, but also any infrastructure to support that equipment including towers and support structures.<sup>8</sup> With this definition Congress ensured that both infrastructure and service providers are afforded the benefits of these laws even when they are distinct entities. However, this critical distinction is lost in the *Proposed Rule* in the following ways, which must be revised.

First, subsection (c)(4) of the redesignated 29.21-8 prohibits permit holders from allowing another party to collocate on the permittee's infrastructure in the ROW absent the granting of an additional application.<sup>9</sup> However, collocation is the preferred method of siting telecommunications equipment. As discussed above, it directly reduces the burden and cost on both the industry and the approving agency. Discouraging collocation will significantly increase the cost of siting telecommunications equipment on FWS land; even to a point where it is prohibitively expensive to deploy. This will directly impact the quality of mobile service on FWS and potentially frustrate national efforts to bridge the digital divide. Consistent with this argument, WIA recommends clarifying that subsection (c)(4) does not apply to Communications Facilities.

Further, subsection 29.21-8(g) it is not clear that FWS is considering that the permit holder may be a distinct entity from the licensee siting equipment on that infrastructure.<sup>10</sup> WIA recommends that FWS clarify that, where the infrastructure is owned by an organization separate from the entity operating the wireless communications equipment, compliance with other federal

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<sup>7</sup> Consolidated Appropriations Act 2018, Pub. L. 115-141 at Title VI (codified at 47 U.S.C. § 1455).

<sup>8</sup> *Id.*

<sup>9</sup> Proposed Rule at 47449.

<sup>10</sup> *Id.* at 47451.

rules and procedures is the responsibility of the operator of the wireless communications equipment.

#### IV. CONCLUSION

Deploying telecommunications networks continues to be a priority for the current Administration through its “Internet for All” initiative.<sup>11</sup> Delivering on the promises to connect all Americans, including those visiting federal lands, will require siting and improving deployments on FWS lands as the industry extends networks to the most remote and rugged regions of the country. Accordingly, WIA encourages the FWS to revise provisions from the *Proposed Rule* that would frustrate telecommunications deployments and to allow the proven benefits of the neutral host model to be used on FWS lands. WIA appreciates the FWS continued focus on improving the siting process and stands ready to provide additional information or resources to aid in those goals.

Respectfully submitted,

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<sup>11</sup> See generally High-Speed Internet for All, [internetforall.gov](http://internetforall.gov) (last visited Aug. 21, 2023).