



The **Broadcasters' Desktop Resource**

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... edited by Barry Mishkind – the Eclectic Engineer

Ask the Lawyer

RFR Compliance is a Shared Responsibility

By Cary S. Tepper

[February 2015] Shared transmission sites have many of the same issues as a shared apartment. It takes cooperation to keep a site clean, secure, and legal. Without attention, an FCC fine is quite possible. Our friendly communications attorney, Cary Tepper, clarifies why that is so.

Question: *We are about to construct our new CP at a shared mountain site. Our consultant tells us we will add a small amount of RFR (RF radiation) to the site. But, with all those other stations already on the site, do we need to worry about this at all?*

Cary Tepper: Several years ago a radio station in Oregon that leased antenna space on a multi-tenant communications tower structure was fined \$10,000 by the FCC because its broadcast operations contributed at least five percent of the RFR levels exceeding the maximum permissible exposure limits applicable to facilities, operations, or transmitters, thereby placing hundreds of people at risk.

The FCC's actions should serve as a wake-up call to all communications providers that share their transmitting site.

WHAT THE FCC WANTS

Part 1 of the FCC's Rules and Regulations contains provisions implementing the National Environmental Policy Act of 1969, and Rule 1.1310 defines the maximum permissible exposure ("MPE") limits for certain transmitters, including those that serve the radio and TV industry.

The exposure limits are defined in terms of spectrum frequency, field strength, power density and exposure time.

As you probably know, there are guidelines for occupational-controlled exposure (such as tower maintenance crews) and general population-uncontrolled exposure (such as members of the general public that might work, reside, or traverse near the transmitting site).

THE PUBLIC ACCESS ISSUE

With regard to the Oregon situation, the FCC took issue with the uncontrolled exposure limits.

Automobile access to the site was restricted but hikers, skiers and members of the general public were easily able to get close to communications tower. The FCC determined that the collective RFR exposure limits from all the tenants on the tower structure placed the general public at risk, especially since there was inadequate signage and no physical barriers such as fencing.

Apparently the Oregon broadcaster admitted the possibility of RFR problems in its license renewal application, promised to resolve the issue but never submitted any follow-up information.

About three years later, in response to a complaint, an FCC Inspector determined that the site was RFR non-compliant. The FCC concluded that the Oregon broadcaster and the other tenants on that tower never took the proper measures to bring that site into compliance.

KEY LEGAL ISSUES FOR SITE SHARERS

It is important for broadcasters to understand that each tenant on a communications tower is automatically assessed some level of contributory responsibility for RFR compliance and general tower maintenance, even if they are not the owner of the structure.

This is consistent with other FCC's rules and policies that place some level of responsibility on all tenants on a tower structure to ensure that the antenna structure registration is accurate, and that the tower lights and paint are properly maintained.

Some broadcasters are required to analyze RFR compliance when they first commence operations on a particular tower structure. Others perform an RFR analysis when they file facility modification applications with the FCC, and when they apply for an FCC license renewal.

But, all broadcasters should keep in mind that any new tenant on a tower structure will impact your RFR liability, as will any equipment on the tower that might become defective. If another broadcaster messes up and causes RFR issues, a strict interpretation of FCC policy says that your operations will be considered to be a contributing culprit if you do not take steps to fix the problem.

IDENTIFYING RFR PROBLEMS

Determining whether a potential health hazard might exist at your transmitting site is not always an easy matter.

Factors which you must consider include:

- (1) the frequency of each RF signal being transmitted at that site;
- (2) the transmitter power output and effective radiated power of each user at the site;
- (3) how long someone will be exposed to the RF signal(s) at a given distance from the tower structure; and
- (4) what other antennas are located nearby.

You should cooperate with all the tenants on the tower, as well as the site manager, and periodically measure the overall RFR compliance.

PROPERLY WARNING THE PUBLIC

To reduce potential problems, make sure that all necessary RFR warning signs are conspicuously visible to the general public and that fencing is installed around all towers located in areas which are easily accessible to the general public.

We encourage you to periodically double-check what measures are in place at your tower site(s). These common sense measures are often ignored, so just because you were not first on the site does not mean you can assume all is correct.

Similarly, if you know that one or more new facilities have been added to the tower structure since you became a tenant, it is time to reevaluate the RF environment to ensure your facility is not collectively in violation of the FCC's RF rules and policies.

Although many broadcast owners and managers are intimidated by engineering issues such as this, it is important that all key personnel at your Station have a fundamental understanding of



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RFR compliance. The FCC has a booklet entitled "*A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance.*" This is a relatively easy to read booklet, and should be available for all your personnel to look at in your studios.

You can obtain a copy free of charge [from the FCC's web site](#), or by [sending me an email](#).

Although the booklet is no substitute for engineering counsel, it does succinctly summarize the FCC's rules and policies in this area, provide basic guidance on how to determine if your site is categorically excluded from RFR exposure limits, and contains a handy checklist so you can self-evaluate your RFR compliance status.

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Here is your chance to ask question about any FCC rule or procedure. Just [click here and ask away](#) with no obligation.

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Founder and managing member of Tepper Law Firm, LLC, Cary Tepper has had, since 1985, an extensive telecommunications law practice with regard to broadcast regulation, business negotiations, acquisitions and mergers, facility modifications, radio spectrum allocations, and administrative hearing litigation. Tepper Law Firm represents several hundred radio and TV stations throughout the US.

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