

Q: Wednesday, April 16, 2014 4:01 PM

[Plan-link] new telecommunications law

Plan-Linkers,

I'm not sure if anybody has had occasion to deal with the finer points of the new telecommunications law yet ([RSA 12-K](#)), but I'm looking over the definition of "substantial modification" in 12-K:2, XXV quoted below. In particular, I'm trying to understand how to interpret the second clause of paragraph (a).

XXV. "Substantial modification" means the mounting of a proposed PWSF on a tower or mount which, as a result of single or successive modification applications:

- (a) Increases or results in the increase of the permitted vertical height of a tower, or the existing vertical height of a mount, by either more than 10 percent or the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; or
- (b) Involves adding an appurtenance to the body of a tower or mount that protrudes horizontally from the edge of the tower or mount more than 20 feet, or more than the width of the tower or mount at the level of the appurtenance, whichever is greater, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower or mount via cable; or
- (c) Increases or results in the increase of the permitted square footage of the existing equipment compound by more than 2,500 square feet; or
- (d) Adds to or modifies a camouflaged PWSF in a way that would defeat the effect of the camouflage.

What does it mean for "single or successive modification applications" to increase the "existing vertical height of a mount by ... the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet"? If each successive application adds one additional array with a separation from the nearest array of 19.9 feet, does each successive application fall just below the threshold of a "substantial modification"? What am I missing here?

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I took part in the effort to make a reasonable compromise on the language of this bill (SB 101; Chapter 267, Laws of 2013 at <http://www.gencourt.state.nh.us/legislation/2013/SB0101.pdf>). Although it isn't perfect it is much better than what was introduced, which would have given the owners of cell towers unfettered freedom to expand cellular facilities.

As enacted, the legislation means that once a tower is up, the owner has the ability to increase its height either (whether once or through a series of expansions) by 10 percent or by another antenna array

(allowing up to 20 feet between the existing highest array and the new array) without needing additional local permitting through the planning board or ZBA. The "single or successive" language is only intended to give the owner freedom to do the expansion all at once or in successive steps - the total is the total, either way.

Note, clause (d), however, which limits any expansion that would defeat the existence of camouflage. In that case, the owner would need to go back to the planning board a/o zoning board.

All in all, I think it was a pretty good compromise.

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