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# The Ineffectiveness of the National Programmatic Agreement for Cell Phone Towers

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Master of Science  
Historic Preservation  
School of Architecture, Art and Historic Preservation  
Roger Williams University  
8/1/2013

The Ineffectiveness of the  
National Programmatic  
Agreement for Cell Phone Towers

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## **DEDICATION**

This thesis is dedicated to my loving husband and Parents. I want to thank them all for supporting and believing in me, throughout the entirety of my Master's Degree.

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## **ABSTRACT**

Since 2004, when the Nationwide Programmatic Agreement was created to help protect and standardize the process of telecommunication tower review within the United States, many installations have been erected that have caused adverse effects on the historic resources that those regulations were intended to protect. This thesis looks at why the Nationwide Programmatic Agreement was enacted and what could be changed to help improve the review and practice of the telecommunication tower process.

The goal was to identify the ways in which the agreement could be improved upon to help minimize adverse effects on historic properties by telecommunication installations that were still able to continue through the current regulations. The research process included interviewing professionals, reviewing case studies, and literature review done on the telecommunication industry as well as the preservation field; in regard to current regulations. Based on the results, the researcher identified four areas where the current act should be reviewed and amendments should be made. These areas are as follows: 1) thirty-day deadline, 2) installation follow-up, 3) lack of awareness of the Nationwide Programmatic Agreement regulations, and 4) town or city owned properties and telecommunication installations. This thesis will suggest changes that can be made to each of the above mentioned areas. The changes suggested will only influence change within those areas to help alleviate the problems within, they will not directly change the areas themselves.



## **CHAPTER 1: INTRODUCTION**

### **1.1 Introduction**

This thesis will examine how federal regulations, particularly those within the Nationwide Programmatic Agreement (NPA), have failed to protect historic landscapes and buildings from the negative impacts of telecommunications installations. It will examine these regulations in order to determine how they can be made more effective. For use in this thesis, a telecommunication installation is an antenna installation on a new or existing tower, building, or structure that transmits radio frequency signals for telecommunications or broadcast purposes (hereafter the term “installation” will be used interchangeably with “tower” to refer to “telecommunication installations”.) Telecommunication installations are part of a rapidly developing industry regulated by the Federal Communication Commission (FCC). Under the FCC’s guidelines, telecommunication installations must undergo many reviews to ensure compliance with established regulations prior to construction. However, there is no published evidence indicating that the NPA guidelines have been formally reviewed since their creation in 2004 under the NPA.

The federal government has a number of regulations to help save significant cultural land sites or buildings from unnecessary harm. However, even with an array of regulations, including the National Environmental Policy Act (NEPA), the Telecommunication Act, the Nationwide Programmatic Agreement and the National Historic Preservation Act (NHPA), countless notable resources are being destroyed. According to Thomas King (a cultural resource management consultant, (2009)), even with the regulations that have been enacted, “What we do not have is an orderly system for actually, honestly considering and trying to reduce impacts on our natural

and cultural heritage” (p.7). Even with NEPA, and the NHPA’s Section 106 guidelines, the Telecommunication Act, and the Nationwide Programmatic Agreement (NPA), King (as well as other professionals) suggests that making these laws work is very frustrating (2009, p.9). Consultants and preservation professionals have become increasingly concerned about affecting historic resources (structures and landscapes) within the telecommunication field. This industry has experienced exponential growth, which has led to many telecommunications installations all over the nation (Sreevidya-Subramanian, 2003).

The FCC implemented the NPA to help make the review process for installations less confusing for telecommunication organizations (FCC, Introduction, 2005). However, the FCC also wanted to ensure that reviewers (SHPO officers) of new telecommunication tower installations would have the necessary construction and environmental site information to perform their jobs effectively (FCC, Introduction, 2005). With the telecommunication industry growing at such a rapid pace the regulations that have been enacted to protect historic sites need to undergo a thorough critical examination along with the industry. In the United States alone there were 340,213 cell phone subscribers in 1985, then in 2005 (after the NPA was enacted) there were 207,896,198; this number has grown to 326,475,248 in the year 2012 and continues to grow (CTIA, 2013,p.11). Preservation professionals have suggested that the National Environmental Policy Act (NEPA), the principal law that allowed the NPA to be created, is no longer meeting expectations as many of the laws that reside under NEPA are outdated (King, 2009; Weiland, 1997; Mendelker, 2010). Even though this criticism is leveled against NEPA as a whole, I believe that it can be applied to the NPA specifically.

## 1.2 Statement of Problem

Since the early 1980s the growing popularity of cellular communication has wrought dramatic landscape changes on the American scene through an invasion of thousands of cellular telephone towers (Wikle, 2002). This rapid growth in the telecommunication industry is why environmental review practices are suffering. According to the CTIA in 1985 there were 913 reported telecommunication sites in service within the United States, in 2005 there were 183,689, and now in 2012 there are 301,779 sites (CTIA, 2013, p.11). The exponential growth in this industry not only has overwhelmed state and local communities with telecommunication review submissions, but it is also a field that is fast evolving. What once was just a device for making a telephone call has turned into a complex apparatus for surfing the internet, texting, making telephone calls, navigation and countless other activities. With all of these new capabilities more cellphones towers are needed to keep up with the demand of the bandwidth used by the devices. According to Jim Tindall (vice president of product management at transport solutions provider Ceterus Networks), “Credit growing consumer demand for mobile multimedia is the driver behind the coming tower boom. As some of these high-speed services are rolling out, it pushes a large amount of bandwidth requirement out to the cell towers in order to backhaul that from the base station to the serving offices. It means a lot more bandwidth carriers have to provide. And that means more towers.” (Ankeny, 2005, p.2) Just like the early cell phone has evolved to meet today’s needs and demands the installations of antennae has evolved as well. What was a common practice for telecommunication installations in the 1980s is no longer used or has changed considerably. One such example is how the antennae are attached to a smoke stack, the older riggings had the antennae protruding farther out from the structure where with the new attachments they can sit closer and tighter to the structure. According to Ankeny “Those same

next-generation mobile technologies also portend significant changes in how carriers deliver services to subscribers.” (2005, p.2) How these installations are installed, where they are installed and what is required of the installations is constantly changing, which makes the review process harder for the Nationwide Programmatic Agreement (NPA) subsidiaries because one installation could be denied, and then in the another year could be approved just from the advancements in the installation techniques (Sreevidya-Subramanian 2003, Ankeny 2005, Tan 1997, Lopata 1999, Hanley 1999). This growth puts pressure on the NPA to keep-up with what these providers are using to produce this bandwidth growth, but also to see if these new solutions are less intrusive to the built or natural environment that they are being installed in.

As a result of this growth the NPA for telecommunications towers is not being implemented effectively, due to the lack of response from local government and a lack of adherence to the established federal and local regulations. These problems have led to many installations that have negatively impacted historic buildings and landscapes, are counterproductive to why the NPA was created. Some examples (obtained through research) I have observed of negatively impacted historic resources by towers are: a tower being built in the middle of a National register historic district, original material being removed from a church for the installation of multiple antennae, and an antenna being installed on the side of a historic building when a telecommunication tower is one block away. The NPA was enacted under Section 106 of the National Historic Preservation Act (NHPA) to improve and streamline the review process for telecommunication installations because of problems assessed by the FCC with the quality of submitted materials, including wide variations in the details and format of proposals (FCC, Introduction, 2005). The main purpose of the NPA review process was to make sure that federal agencies were not negatively impacting historic resources without considering

alternatives. Such alternatives include siting the installation in another location, type of installation used (such as the example given for the smoke stack), using already existing towers (this is a requirement of the FCC: “Whereas, the FCC encourages collocation of antennas where technically and economically feasible in order to reduce the need for new tower construction” (FCC, Collocation of Wireless Antennas, p.1)), and camouflaging. One such camouflaging type that is popular is a false pine tree. “Restrictions and difficulties in obtaining new structures for supporting antennas call for ingenuity for disguising the structures and antennas and for designing special structures that fit into the actual surroundings. An ingenious recent solution in the United Kingdom, where the tower, constructed from tubular steel elements, is in the form of a tree “(Sreevidya-Subramanian, 2003, p.107).

### **1.3 Background and Need**

Rapid growth is one continuous problem that the NPA has to contend with in the telecommunication industry. Consumer demand for the newest technology is constantly pushing the industry to ensure that it anticipates the challenges of meeting the needs of an ever expanding cohort of users and devices (Sreevidya-Subramanian, 2003). The advancements the telecommunication industry has taken in the past eight years since the NPA was created in 2005 has put pressure on the State Historic Preservation Office (SHPO) to maintain a thirty-day review deadline.

The Telecommunications Act (TA) of 1934 created the Federal Communications Commission (FCC). It was the FCC that established the Nationwide Programmatic Agreement to streamline the review process to ensure a thirty-day turnaround on decisions for telecommunication installations (FCC, 2005). While the NPA has not been formally reviewed, other federal regulations such as the NHPA have been reviewed and amended over time. A

formal review for the NPA would be conducted by the FCC because they are the regulatory agency that is empowered to create and enforce the rules under the regulation. If the FCC were to pursue an amendment to the current NPA it must follow the rules and processes under the Administration Procedure Act. The rules require the publication of all proposed new regulations in the Federal Register, and that they must provide a way for interested parties to comment, or to object to the regulation (Longley, 2012). According to the FCC, it must follow the “notice and comment rulemaking” guidelines set by the Administrative Procedure Act (APA). After all comments are collected the FCC would review and analyze all comments received. The FCC could then move forward with the rulemaking process, which would include publishing the rule in the Federal Register (FCC Encyclopedia, Rule Making Process at the FCC, 2011).

The NPA should be reviewed to determine its effectiveness for the ever-growing telecommunication industry. For example, in 1976, the Section 106 review process for the NHPA was expanded to include buildings and other historic resources that were not already listed on the National Register of Historic Places. In 1980, Section 110 was added to the NHPA in order to require that all heads of federal agencies develop preservation programs within their individual agencies to help them identify effects on historic resources (Public Law No. 102-575). An official review of the NPA by the FCC for every region of the United States could help identify issues of concern and decide the best way to institute local regulations that could work in conjunction with the NPA. The United States consists of five regions: the North East, South East, Mid-West, South West and West.

## **1.4 Purpose of the Study**

The purpose of this thesis is to identify the ineffective aspects of the current Nationwide Programmatic Agreement (NPA) and to specify ways of strengthening the current regulations. Identifying these problems could also help historic preservation professionals and SHPOs improve the practice of reviewing telecommunication installations in order to create the form-based 620/621 packets, which contain all the information needed for review. My study would clarify or change the regulations in these forms based on the results of interviews.

To discover problems with the NPA, I conducted interviews of preservation professionals and performed case study research. From the interviews and case studies I identified ways that the NPA has been unsuccessful in protecting historic structures and landscapes. The case studies revealed that the regulations have failed in very specific contexts. Such as a tower being built without going through any local or federal regulation, a historic district commission being overruled by local government for an installation on town-owned land for the purpose of revenue, and towers being built on historic structures with negative impacts because the SHPO did not respond to the applicant within the thirty-day time frame. The interviews revealed ways private sector and government professionals believe the current system can be changed or improved upon.

## **1.5 Research Questions**

The two research questions that this thesis addresses are: 1) Why is the Nationwide Programmatic Agreement not being implemented effectively for the protection of historic properties or landscapes from telecommunication towers? 2) How could it be more efficiently and effectively implemented?

## **1.6 Significance to the Field**

This thesis will suggest ways to improve the review of telecommunications installations in order to protect historic resources more efficiently from the rapidly growing telecommunication field. It identifies preservation practices that are accepted by SHPOs and consultants in the private sector during the review process. Knowing what practices are accepted within the industry can help reviewers look at each case with more confidence because they know what other preservation professionals might decide in a similar proposal. Knowing which regulations telecommunication providers have not followed in the past may help SHPO employees and preservation professionals be more aware of what to look for when conducting telecommunication tower reviews. This knowledge can help expedite the planning and review process by helping those putting the submission packet together to make sure that all of the required materials are indeed in the packet. Identifying ways that problems can be identified and corrected is the main goal of this thesis. This examination will address several issues, identified through the interviews conducted, in the logistics of preservation practice: the need for local ordinances to be met before pursuing the Section 106 process with the SHPO; the importance of identifying potentially eligible historic resources within the area of potential effect (APE) and providing photographs of those resources; and, finally, the necessity to adhere to all construction plans submitted in the 620/621 packet for an installation.

## **1.7 Definitions**

**620/621 Submission Packet** – The document to be submitted initially to the SHPO to facilitate review of the Applicant’s findings and any determinations with regard to the potential impact of the proposed undertaking on Historic Properties in the APE. There are two submission packets: (620) the New Towner Submission Packet, (621) The Collocation Submission Packet (FCC, Definitions, 2005).

**Adversely Effected** – A negative alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register (FCC, Definitions, 2005).



**Antenna** – An apparatus designed for the purpose of emitting radio frequency radiation for the transmission of writing, signs, signals, data, images, pictures, and sounds (FCC, Definitions, 2005).

**Area of Potential Effects (APE)** – The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of Historic Properties, if any such properties exist (FCC, Definitions, 2005).

**Historic Resources** – Properties, structures and districts that are listed in or have been determined to be eligible for listing in the National Register of Historic Places (FCC, Definitions, 2005).

**NEPA** – The National Environmental Policy Act was established in 1969 (Public Law, 1969). NEPA established for the first time national policies and goals for the protection of the environment. NEPA aims to encourage harmony between people and the environment, promote efforts to prevent or eliminate damage to the environment and the biosphere, and enrich the understanding of ecological systems and natural resources important to the country (West's Encyclopedia of America Law).

**NHPA** – The National Historic Preservation Act was created in 1966. It is overseen by the National Park Service. This act established: Advisory Council on Historic Preservation, State Historic Preservation Office, National Register of Historic Places, and the Section 106 review process. It is legislation intended to preserve historical and archaeological sites in the United States of America. The act created the National Register of Historic Places, the list of National Historic Landmarks, and the State Historic Preservation Offices (Public Law, 1966).

**NPA** – The Nationwide Programmatic Agreement was created in 2004 by the Federal Communication Commission under Section 106 of the National Historic Preservation Act (FCC, Introduction, 2005).

**NPA Guidelines** – On October 5, 2004, the Commission released a Report and Order, FCC 04-222, adopting the Nationwide Programmatic Agreement regarding the Section 106 National Historic Preservation Act Review Process (NPA), signed by the Advisory Council on Historic Preservation (ACHP) and the National Conference of State Historic Preservation Officers (NCSHPO) and amending Section 1.1307(a)(4) of the Commission's rules, 47 C.F.R. §1.1307(a)(4), (FCC, 2004).

**Section 106 Review Process** – Created under the NHPA, mandates federal agencies undergo a review process for all federally funded and permitted projects that will impact sites listed on, or eligible for listing on, the National Register of Historic Places (Public Law, 1966).

The Section 106 Review Process:

1. Initiating Consultation: The federal agency must determine if Section 106 applies to a given undertaking and, if so, initiate consultation.
2. Participants in the Section 106 Process: The federal agency must identify all potential consulting parties, including the SHPO, THPO, local governments, applicants for federal assistance, interested parties, and the public.
3. Inviting Consulting Parties: The federal agency must invite parties to participate in consultation and provide basic information about the undertaking to all parties.
4. Defining the Area of Potential Effects (APE): The federal agency must identify areas where its project could directly, indirectly, or cumulatively affect historic properties. Identification of the APE is done prior to identifying historic properties.
5. Identifying Historic Properties: The federal agency must determine the area that will be affected by the project (i.e., the area of potential effects or APE) and gather information to determine which properties in the project area are listed in or eligible for listing in the National Register of Historic Places.
6. Assessing Effects on Historic Properties: The federal agency must determine how historic properties might be affected by the project.
7. Resolving Adverse Effects: The federal agency must explore alternatives to avoid or minimize adverse effects to historic properties. The federal agency must then reach agreement with the SHPO and/or THPO (and the Advisory Council in some cases) and all consulting parties on measures to resolve any adverse effects. If there is failure to reach agreement, the Advisory Council will notify and send advisory comments to the head of the federal agency (State of South Carolina, 2011).

**SHPO** – The State Historic Preservation Office was created in 1966 under the National Historic Preservation Act (Public Law, 1966). The SHPO is a state governmental function created by the United States federal government in 1966 under Section 101 of the National Historic Preservation Act (NHPA). The purposes of a SHPO include surveying and recognizing historic properties, reviewing nominations for properties to be included in the National Register of Historic Places, reviewing undertakings for the impact on the properties as well as supporting federal organizations, state and local governments, and private sector (King, 2004, p.22).

**Significant Impact** – The definition is framed in terms of "context" and "intensity." Context means the geographic, social, and environmental contexts within which the project may have effects. The regulations refer to: Society as a whole, defined as including all human society and the society of the nation, the affected region, affected interests, such as those of a community, Indian tribe, or other group, the immediate locality. The regulations also say that both short-term and long-term impacts must be considered –in other words, impacts must also be considered in the context of time (National Preservation Institute, 2013).

**Telecommunication Installation** – Any structure (tower or antenna) on a new or existing tower, building, or structure that transmits radio frequency signals for telecommunications or broadcast purposes (FCC, Definitions, 2005).

## **1.8 Limitations**

This thesis was limited by the time frame of five months to perform all research and interviews. Because of the time constraints, all participants had to be within driving distance of the author to allow for in-person interviews; thus, all interviewees were selected from within New England: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut. The opinions of such a small sample of people will not allow all the issues with the NPA to be identified, because each geographical region within the United States could potentially have a different problems than those identified within this thesis. For example, the Midwest region has far fewer historic preservation professionals.

## **1.9 Ethical Considerations**

There were several possible ethical issues for the people involved in this study that required specific procedures to minimize the risk to the participants. Most of the professionals interviewed hold a government position, which makes every aspect of their job public knowledge; as a result, they need to be able to explain and support every decision that they make in their position. Recording their personal opinions in a potentially public document could influence, for example, a telecommunication provider's view of the professional's ability to complete his or her job in an unbiased manner and therefore place that person's employment in a questionable position with superiors.

I recognized that the subjects were not expected to be exposed to more than minimal physical harm, but there was the potential of psychological harm, specifically because of the potential risk to participants' careers and reputations. Therefore, all identities were kept confidential (names were replaced with pseudonyms); in addition, all participants had the right to end their interview at any point, to not answer any question, or to withdraw from the study at any

time. All of the participants were provided information about the known risks and were asked to read and sign an informed consent form. With these procedures in place I was given permission to proceed with the interviews by the Roger Williams University Human Subject Review Board.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1 Introduction**

This review will examine literature that pertains to the topic of how telecommunication towers are negatively affecting historic landscapes and buildings. Examine how current regulations were set up to mitigate this negative impact but are still lacking today. It will explore the National Environmental Policy Act (NEPA), and regulations that fall under it, as well as state and local regulations, which include zoning requirements. This review will study how telecommunication towers are being perceived as visual pollution and what is being done to change that view. Lastly, the effect of the growth in telecommunication permit applications on federal, state, and local regulators will be reviewed.

A telecommunication installation is a site where an antenna is placed for the purpose of transmitting radio frequency signals for telecommunications or broadcast purposes, usually on a tower or high structure. These installations are regulated by the Federal Communications Commission (FCC) of the U.S. federal government. The FCC ensures that all telecommunication tower permits undergo review and follow all appropriate regulation. Once a telecommunication provider decides that it needs more coverage in a specific area, it must follow FCC regulations: perform Section 106 review, notify local government. No installation can be licensed or permitted without meeting the regulations.

### **2.2 National Environmental Policy Act**

NEPA requires all federal agencies to weigh their proposed actions against potential environmental consequences. All telecommunication towers exist under the jurisdiction of NEPA, which requires each proposed project to undergo review to ensure compliance with the FCC's regulations. Since NEPA's creation in 1970, Congress has enacted many laws that fall

under NEPA's jurisdiction, such as the National Historic Preservation Act (NHPA), the Telecommunication Act of 1996 (TA), and the Nationwide Programmatic Agreement (NPA) of 2004. To comply with these stringent regulations, a federal agency must determine through an Environmental Assessment (EA) whether a significant impact could result from completing the project. A significant impact would mean that the project had either an impact in either terms of "context" and "intensity." "Context means the geographic, social, and environmental contexts within which the project may have effects. The regulations refer to: Society as a whole, defined as including all human society and the society of the nation, the affected region, affected interests, such as those of a community, Indian tribe, or other group, the immediate locality." (National Preservation Institute, 2013). That same federal agency must prepare an Environmental Impact Statement (EIS), which explains the alternatives, the decisions, and the basis for those decisions. Once the EIS is completed, the organization must submit it to the Environmental Protection Agency for review. Any further action is prohibited prior to the EIS being submitted and approved in accordance with public law No. 91-190 (1969).

The effectiveness of NEPA since its creation in 1969 has come under scrutiny by critics; the consensus from the literature is that current regulations are out dated and not meeting proposed expectations (King, 2009; Weiland, 1997; Mendelker, 2010). According to Weiland, "the Environmental Impact Statement (EIS) of NEPA was designed to improve decision making by forcing the federal agencies to consider the environmental implication of their activities" (1997, p. 282); however he also feels that "the EIS is necessary but insufficient as an action-forcing procedure" (Weiland, 1997, p.292). NEPA has not been revised since its creation in 1969, but many of the critics have expressed that NEPA would best be served through strengthening the current laws and regulations. (Bear, 2003; King, 2009; Lettie, N.D; Weiland,

1997; Mandelker, 2010) The overall opinion by these critics is that NEPA has turned into “something that’s nice to do if you’ve the time and leisure” (King, 2009, p. 7). The Council of Environmental Quality (which is a division of the Executive Office of the President, that coordinates federal environmental efforts (White House)) stated that agencies today engage in consultation after their decisions have already been made, rather than during the decision making process (Council on Environmental Quality, 1997). Some critics feel that NEPA takes too long to complete the review process and that it is used in courtrooms only for regulation (Bear, 2003). Other ideas by the critics about how to improve NEPA included that the agency take a wider view of environmental impacts than are currently suggested in NEPA regulations (Mandelker, 2010).

Since NEPA was passed, many environmental professionals (which include environmental agencies and consultants) have not only thought about the environment in different ways but have also devised innovative solutions for environmental impacts. Since budgetary constraints have become a national concern, the downsizing of many federal agencies, including NEPA, has resulted in deteriorating effectiveness (Weiland, 1997, p.285). According to Weiland a judicial review and a citizen’s suit provision should be included in the current act, which could assist in strengthening NEPA’s foundations (Weiland, 1997, p.291).

Telecommunication towers fall under NEPA jurisdiction, but other regulations must be complied with, these include the National Historic Preservation Act (NHPA). NHPA was enacted to preserve historical and archaeological sites. NHPA was responsible for the creation of the National Register of Historic Places, the National Historic Landmark Program (which identifies cultural resources that are officially recognized by the United States Government), and the State Historic Preservation Offices ((SHPO) which reviews nominations for properties to be

included on the National Register of Historic Places). Section 106, the review process that requires federal agencies to take into account the effects of their project, has become the “key provision for purposes of saving pieces of heritage from destruction” (King, 2009, p. 18). Once the federal process is completed by professionals, it is then sent to the appropriate parties at the SHPOs. The 106 Review process remains a main concern to the critics since its current reputation is that it has “long since stopped even coming close to achieving its purpose – or any purpose” (King, 2009, p.15). These same critics suggest that new ways of reaching compromises under this act are necessary in order to reach desirable outcomes that better suit the historic resources (King, 2009).

The Telecommunication Act of 1996 (TA), which also falls under NEPA, was enacted to provide equal opportunity in competitive markets and to remove regulatory barriers for all telecommunication providers. The Act’s main purpose was to update past requirements from the Telecommunications Act of 1934. Since considerable advancements continue within the telecommunication field, these revisions should be an ongoing process (Sreevidya-Subramanian, 2003). A main concern with the TA of 1996 is that it took away local governments’ abilities to have no telecommunication installations within their jurisdiction (Levitt, 1998). Local officials can put regulations on the towers through zoning, but they cannot stop a telecommunication company from providing service within their purview as such The Nationwide Programmatic Agreement (NPA) of 2004, created by the FCC, came about through the enactment of the TA of 1996, and falls under Section 106 of the NHPA. Congress enacted the NPA to improve and streamline the review process for telecommunication towers since the quality of submissions had been severely lacking. In the past the submissions lacked consistent detail, format, and often insufficient information for the purpose of a review (FCC, 2005). The NPA established



guidelines for the recipients of the NPA packet and requires specific organizations including: the State Historic Preservation Office, Tribal Historic Preservation Office, local government (that has primary land use jurisdiction), and the local public, to be notified about the telecommunication project. An NPA packet includes either a 620 or 621 form (see appendix B), construction documents, site photographs, public-notice proof, and any other state required documents. All telecommunication providers must comply with these regulations. The contents of the NPA packet are also dictated by the NPA, and the review of any effect on historical properties is implemented as a result of this packet. The NPA stipulates how far away the area of potential effect (APE) is for historic properties depending on the height of the telecommunication tower and the time frame a SHPO has for reviewing the packet submitted (FCC, 2005). It is Section 106 of the NHPA that specified that any federal undertaking has to undergo a review, which is what allowed for the FCC to create the NPA. Since its creation the NPA is overdue for a review of its effectiveness.

All of the above mentioned acts and laws are regulations that arise when a telecommunication tower is installed anywhere within the United States. Because Congress enacted all of these regulations, they are subject to the federal level of the United States Government. However, the problem does not pertain to the federal level only; it moves into both state and local regulations as well.

### **2.3 State and Local Regulations**

State and local governments have their own laws that each telecommunication provider must understand and comply with for each and every telecommunication site (most of which is through local zoning). Local zoning affects the building of telecommunication towers because

the TA of 1996 preserves the right of state and local authorities to decide land use and zoning issues regarding the construction, modification, and placement of communications facilities (Tan, 1997; Public Law No. 104-104, 1996). The strongest argument against the TA by critics is that it provides both sides amenities in regard to zoning, but that the telecommunication providers appear to have the advantage since they have the right to build within any town/city (Martin, 1997; Hanley, 1999.) This is found in Section 704 of the TA, which allows local communities to control the aesthetics and location of the telecommunication tower, but not to ban the tower (Levitt, 1998). According to critics, the telecommunication providers also appear to have the upper hand since many local governments are being overturned by federal courts, putting national interests of telecommunication promotion over local concerns (Richman, 2002; Levitt, 1998).

The majority of people now own a cell phone; however, that same majority prefers not to see any of the cell towers within their own community (Martin, 1997; Tan, 1997; Evans, 1998). In 1985 there were 340,212 estimated cell phone subscribers connections, in 2005 that number grew to 207,896,198; now in 2012 that number is 326,475,248 (CTIA, 2013, p.5). Out of those connections in 2012 152 million were smart phones (CTIA, 2013, p.6). As mentioned by Jim Tindall (vice president of product management at transport solutions provider Ceterus Networks) because of the demand for high-speed services from smart phones more towers are needed to provide the extra bandwidth required (Ankeny, 2005, p.2). From 2011 to 2012 there was a 69% increase in wireless data traffic; in 2011 there were 867 billion of MB of reported wireless data traffic which then jumped to 1,468 billion of MB in the year 2012 (CTIA, 2013, p.9). The vast expansion of telecommunication installations is why many individuals would prefer not to be able to view all of the installations. This thinking has led to such organizations as NIMBY (not in my

back yard), which allows the local public to express their opinions and concerns for any new development of telecommunication towers. These types of organizations provide the general public a forum to express opinions concerning the telecommunication towers. Most of the general public's concerns deal with the visually intrusive structure of the towers diminishing the aesthetic value to their communities (Nagle, 2009).

## **2.4 Telecommunication Towers as Visual Pollution**

Aesthetic concerns led telecommunication providers to find ways of making their towers less visually intrusive. Camouflaging towers has become one way of blending them into the natural and built environment, using items such as trees, silos, unipoles, and watch towers (Dichiara, 1997; Sreevidya-Subramanian, 2003). Rural and suburban communities' present challenges since scenic views can be disturbed more by these towers than installations in densely built area (Wikle, 2002).

One of the most difficult places to secure a location for a telecommunications site is a historic district. Due to this problem many telecommunication companies are finding that churches "are rapidly becoming among the few acceptable locations for hiding cell antennae in historic districts" (Wikle, 2002, p.59). However, when telecommunication sites are within a historic building, they could potentially be doing more harm to the building than is acceptable, creating an adverse effect. Harm in this instance constitutes a change to the building or structure that cannot be undone at a later time to the original fabric of the historic resource. The success of camouflaging towers has made the general public mostly unaware of the expansion this industry has had over the last several years.

## **2.5 Rapid Telecommunication growth in the last couple of years**

As digital devices continue to advance in the telecommunication field the need for additional telecommunication towers will continue into the foreseeable future. As demonstrated in 1998, there were already 50 million cell phone users and 55 million subscribers, and the growth rate was expected to exceed 25% every year (Sreevidya-Subramanian, 2003). Now the exponential growth has been overwhelming most state and local communities, making it nearly impossible to keep up with the numerous telecommunication requirements, including the application process, the environmental impact, community aesthetics, and national historic preservation interests (Ankeny, 2005; Tan, 1997; Lopata, 1999; Hanley, 1999).

## **2.6 Summary**

This literature review shows that many federal regulations stem from NEPA and its associated acts, but that the result has not proven advantageous to local communities. The telecommunication companies have the advantage in legal proceedings and continue to have the lead against local opposition. Due to the lack of faith in the current federal regulations ability to enforce their procedures many of those regulations have undergone reviews by professionals who work under them. However, the Nationwide Programmatic Agreement (NPA) is not among those that have been reviewed. A considerable amount of the issues identified within this literature review can be specifically associated with the NPA, which is why many telecommunication towers are adversely affecting historic landscapes, districts, places, and buildings. As established by the literature a review is needed for the Nationwide Programmatic Agreement to help other professionals identify the current problems that exist in today's context.

## **CHAPTER 3: METHODOLOGY**

### **3.1 Introduction**

To explore the questions of how and why the Nationwide Programmatic Agreement (NPA) is not protecting historic resources from inappropriate changes caused by telecommunication tower construction, this thesis explores the insights of professionals who must apply the NPA rules in the environmental review process. I used a qualitative research methodology because the questions of how and why requires an understanding of previously unexplored phenomena that dictates open-ended exploratory questions. A quantitative methodology would not work well because my data (interviews and a review of decisions as documented in 620/621 packets), does not lend itself to measurement, but rather to understanding participants' meanings and how to treat those meanings. Creswell (2009) believes that a participant's meaning should not rely on the researchers own meaning of the definition but that of the participants' meaning. "In the entire qualitative research process, the researcher keeps a focus on learning the meaning that the participants hold about the problem or issue, not the meaning that the researchers bring to the research" (Creswell, 2009, p.175). Hence, a qualitative research methodology is a researcher trying to ascertain meaning from each interview conducted as to the problem identified, and keeping bring their own meanings separate by way of "bracketing". Bracketing is a way for the researcher to keep their own meanings separate from the informants. Keeping the qualitative approach in mind, I used an interview methodology to gather qualitative data. Using interviews of state, city, and local employees, as well as local historic district commission members, I analyzed and coded my data in order to find major themes for why the Nationwide Programmatic Agreement (NPA) is currently not working.

### **3.2 Setting**

The interviews were performed within the New England region of the United States, which includes Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut. The interviews took place at State Historic Preservation Offices (SHPOs) and city and town halls in a private office or room. One took place by telephone. Having a private office or room allowed for the interviewee to have confidentiality, because no one outside the private room knew what was discussed during the allotted time. This confidentiality allowed the interviewee to be more forthcoming with personal opinions and experiences.

### **3.3 Sample/participants**

I selected interview candidates from state historic preservation offices (SHPOs) within New England that approve telecommunication tower building and siting. I also interviewed other New England professionals (such as town/city planners and historic district commission members) who review documents for proposed telecommunication towers. The interview environments were consistent with well-educated, middle-aged professionals, the same demographic of the interviewees themselves. The exact list of interviewees and the exact location of case studies will be kept confidential due to ethical considerations (see ethical issues section in appendix A for more details).

### **3.4 Research Design**

For this thesis, I used a qualitative research paradigm, defined as “a means for exploring and understanding the meaning individuals or groups ascribe to a social or human problem” (Creswell, 2009, p. 4). Qualitative data is collected by four means: observation, interviews, documents, and audio visual materials (Creswell, 2009, pp. 179-180). In order to conduct the research for this thesis I employed an interview methodology due to time and resource

limitations (Creswell, 2009; Warren, 2002). The five-month time limitation did not allow for a participant observation-based means of data collection. In order to conduct a participant observation study, the researcher needs to become part of the everyday environment of the office which would take longer than the time allotted for this thesis. Hence, I decided that a qualitative interview methodology was best for this thesis because it allows for the subjects interviewed to give insightful interpretive answers to the questions. “[U]nlike the survey interview, the epistemology of the qualitative interview tends to be more constructionist than positivist. Interview participants are more likely to be viewed as meaning makers, not passive conduits for retrieving information from an existing vessel of answers. The purpose of most qualitative interviewing is to derive interpretations, not facts or laws, from respondent talk.” (Warren, 2002, p.1). A constructionist looks to interpret questions that are asked of him or her, where as a positivist looks for objective, measurable phenomena in a question rather than explore origins or problems which is why a survey methodology has a tendency to lend to a positivist or factual output of information where a non-survey interview will give more insight and meaning (Collins English Dictionary).

### **3.5 Data Collection/Procedures**

All of the data I collected came from interviews with professionals in the field and case studies. The interview candidates were chosen from within New England states and from multiple towns and cities where telecommunication towers have been built. All interviewees either conduct telecommunication tower reviews for the SHPO offices, are town/city planners who review telecommunication towers for local ordinances, or are members of local historic district commissions. The interview candidates were contacted strictly through telephone calls because of concerns that business email is subject to review by the public or the interviewee’s

superiors. This form of contact helped keep the identity of the interviewees confidential. All informed consent forms were given to the interviewees in person or, in one case, sent through a personal email account. Most interviews were conducted in person unless schedules did not allow, in which case the interview was conducted over the phone. All of the interviews were audio recorded with the interviewee's permission; otherwise, interview notes were used in accordance with the Human Subject Review Board (HSRB) review board application (see appendix A).

The interviews consisted of open-ended questions pertaining to the NPA, the review process of telecommunication towers, local government regulations for installations, and the impact on historic resources. All questions were generic within the areas specified, so the interviewees could shape them to their own personal experiences or problems, but also keeping any personal bias from entering the questions. For instance, one question was, "How would you say the current NPA regulations are working?" Many questions could not be formed before the interview took place because of the evolution of the interviews and the open-ended nature of the questions. These steps were completed to help keep the interviewee at ease and to help with any anxiety about the interview process.

The case studies I reviewed involve telecommunication towers within New England that were approved but I considered to have a negative impact on the site or property. A negative impact could include removing original fabric from a historic structure, adding false building edifices to a historic structure (such as false flues, chimney stacks, silos etc.), or interrupting the visual setting of a historic landscape. Documents and photographs of all case studies were collected from SHPOs or local governments and included 620 and 621 forms, letters of approval



or opposition to the cell tower, local historic district commission reviews of the tower and any other public documents pertaining to the cell tower.

### **3.6 Data Analysis**

I employed a basic qualitative data analysis in this thesis. According to Creswell (2009), “in this approach [qualitative data analysis], the researcher collects qualitative data, analyzes it for themes, or perspectives, and reports 4-5 themes” (p. 184). My analysis consisted of transcribing the interviews into Microsoft word documents, comparing those documents to each other, and then organizing the content of the documents into major themes. This analysis process allowed me to answer the research questions: Why is not the Nationwide Programmatic Agreement being implemented effectively to protect historic properties and landscapes from telecommunication tower construction? How could it be more efficient and effectively implemented?

The interviews were first organized and prepared for analysis by transcribing the audio recordings into Microsoft Word documents. Once all recordings were transcribed, all interviews were then re-read to gain an overall sense of the major themes. The coding process then started, which Creswell defines as “the process of organizing the material into chunks or segments of text before bringing meaning to information” (2009, p. 186). After coding, using the process described by Creswell (2009, pp. 186-189), I divided the interviews into themes for in-depth analysis to create a narrative of the findings; this narrative was then woven into the major themes identified from the interviews. A careful examination of the main themes revealed ways to help shape changes in the NPA, or ways in which local or state organizations can improve to work more efficiently with the NPA.

### **3.7 Summary**

The main sources of data for this thesis came from interviews with professionals who review telecommunication towers at both the state and local levels of government as well as from case studies. The interview process was used because the research question that is being explored by this thesis is not measurable in numbers (i.e., quantitative); it is based in the professional judgments of experts who must answer to state and local government officials as well as a host of federal regulations. Hence, interviews were identified as the best way to gain access to credible opinions. All of the interviews gathered were evaluated to identify the major themes in order to answer the research question posed for this thesis.

## **CHAPTER 4: RESULTS**

### **4.1 Introduction**

To answer the research question described in chapter 1 and to maintain the interview methodology, I conducted seven interviews: three with SHPO professionals, three with town planners, and one with a local historic district commission (HDC) officer (see Table 4.1 List of Interviewees). Most of the interviews were conducted in person unless schedules did not allow, in which case one interview was conducted over the phone; each individual was interviewed once, and all interviews involved only one interviewee. With the exception of two interviews, the process progressed smoothly around the subject of the NPA and the interviewees' professional issues with the regulations. The other two interviewees needed more questions to ascertain their views of the NPA. All of the interviews lasted one to two hours, and all were audio recorded with the interviewee's permission. All of the interviews were conducted with professionals or those that work in close proximity within New England.

An informed consent form was signed by all interviewees; it described the potential harm to their careers, which could include the loss of their job, negative impact on career growth, legal bias claims, and injury to professional reputation. Due to this potential harm, all interviewees were given pseudonyms to help keep their identities confidential. These interviews were conducted in order to understand what the professionals' particular problems with the NPA are and to understand why the NPA is not effectively protecting historic properties and landscapes from damage by telecommunication installations.

This process used to ascertain information from the interviewees was a qualitative research methodology which led to an interview methodology (see chapter 3). This interview methodology consisted of an open-ended interview process which means that I came up with a

list of general questions that originated from the literature reviewed on the Nationwide Programmatic Agreement, but that related to my research question (see chapter 1, section 5). The questions used related to my research question by trying to find out how the interviewee felt about how the NPA is working, and where are areas that the NPA could improve to help protect historic resources more effectively. These questions were used to begin the interview process; however, once the first question was answered, I let the interviewees' responses shape where the following questions originated during the interview. I only used other constructed questions if the interview came to a standstill. All of the questions that were predetermined for the interviews or that were asked during the interview were constructed as open ended. This open-ended question type allowed for the interviewee to direct the interview, but also to not allow for any personal opinions to come through in the way I worded the question, so as not to bias the informant.

The recordings from the interviews were then coded and analyzed to identify the major themes that were expressed throughout the interview process: the constraints of the thirty-day deadline, the lack of enforced follow-up for installations, the ignorance of the NPA regulations on the part of planners and SHPOs, and the debate over use of town owned land versus private property. The coding process consisted of organizing and transcribing the interview recordings into Microsoft Word documents. The transcriptions were then re-read in order to gain an overall perspective of the interviews. At this point, the coding process began, which consisted of organizing the interviews into segments to allow for analysis of how the identified themes could help shape change in the NPA or the organizations that work with the regulations.

#### 4.1: List of Interviewees

<b>1</b>	<b>Amy</b>	<b>City Planner</b>
<b>2</b>	<b>Bob</b>	<b>Town Planner</b>
<b>3</b>	<b>Cathy</b>	<b>State Historic Preservation Officer</b>
<b>4</b>	<b>Dan</b>	<b>City Planner</b>
<b>5</b>	<b>Emily</b>	<b>State Historic Preservation Officer</b>
<b>6</b>	<b>Fran</b>	<b>Historic District Commissioner</b>
<b>7</b>	<b>George</b>	<b>State Historic Preservation Officer</b>

#### 4.2 Thirty-Day Deadline

All of the informants cited problems with the thirty-day time frame under the current federal regulations. The 620/621 forms require that all local governments be notified of the proposed telecommunications installation on or before the date that the packet is submitted, which sets the thirty-day timetable into effect. The NPA states that the SHPO has thirty days to complete the review process; if the SHPO does not provide written notice to the applicant of the findings, then a “No Adverse Effect” finding will be automatically deemed for the project and the review is complete. As a result, the applicant may move forward with the project potentially putting historic resources at risk (FCC-04, 2004, p.22).

When asked about how the SHPO employees were affected by the thirty-day time frame and the no response clause, George and Cathy gave me a knowing smile; Cathy expressed surprise that I asked about this clause and George gave a defeated sigh. Both Cathy and George indicated that they did not like the regulation’s default approval to move forward. Both Cathy

and George would rather that the applicant had to wait for written notice from the SHPO before proceeding. This preference was due in part to the fact that both of these SHPO employees are the only ones who perform the telecommunication tower installation reviews for their offices. Thus, if they are sick or on vacation for a few days during a month, some applications could miss the thirty-day review mark; one SHPO reviewer, George, said, “If you don’t get something out on time they [the applicant] could potentially knock down a [ historic structure] which is a little frightening.” Both Cathy and George indicated that their SHPOs gave response letters to every application that came into the office, whether the proposal was approved or denied. This procedure is not carried out at every SHPO in New England; in fact, the third SHPO interviewee, Emily, indicated that her SHPO does not send out responses to approved telecommunication installations because they just don’t have the time to draft those letters. She and her colleagues would rather use the time to move on to other applications. The variety of responses suggests that the SHPO interviewees believe that this regulation should be at the discretion of the state, not dictated in the NPA.

However, a thirty-day timetable does not pertain only to the SHPO office; it is also enforced within most local ordinances, predominantly through zoning regulations, which generally mandate approval from a zoning board and subsequently complete building permits. Most zoning ordinances have a strict timeframe that the local governments must comply with. Town zoning commissions, or boards, give themselves anywhere from thirty to sixty days to respond to a zoning variance. In response to the question of whether the town planner interviewees believed that “local governments have enough time to make a determination on a planned installation,” all of the interviewees (Dan, Amy, and Bob) replied that they did not feel that this was adequate time for local governments or commissions. The overall consensus was

that most local governments plan their monthly meeting in advance and most applications for telecommunication installations end up on the docket of the next month depending on when the application was submitted to the town, which implies that the town cannot give an answer to the SHPO within the thirty-day timeline. Emily stated that “the local (ordinances) should be taken care of before it comes to us [the SHPO] because they [local commissions] are volunteers. I think they need more time.” George also stated that in his SHPO office, the timeframe occasionally became an issue with the local governments because they would have to “back track procedures because a town had a problem after [the SHPO] was done.”

#### **4.3 Installation Follow-Up**

All of the interviewees were given the opportunity to suggest regulations that they would like to see added into the NPA. Cathy, the first SHPO employee interviewed, moved to the edge of her seat and was very excited to answer this question. Her first response to the question was that she thought that there was a lack of follow-up on telecommunication tower installations; as a result, the SHPO had no way of knowing if the installation was done in accordance with the application. She expressed regret that her SHPO did not have enough resources to send representatives to check on each installation. After this problem was brought up by a SHPO interviewee (Cathy) the rest of the SHPO interviewees (George and Emily) indicated that they were in the same position as Cathy: They lacked the resources to check on the installations, but they would like to see this step implemented. George thought that it would make sense for the SHPO to sign-off on the finalized installation or at least have pictures provided of the finalized installation to help complete the SHPO file. Not only would having the photographs complete the SHPO file, but Cindy thought that the follow-up would ensure that the SHPO knew if an

installation was even built, because it is common that many installations are not ultimately constructed.

On the other hand, when asked the same question, the local government interviewees (Dan, Amy, and Bob) indicated that it was not part of the planners' responsibility to review the finalized installation and that they did not see a reason to add one, because the inspection of the installations landed on the town or city inspectors. Dan said that it is rare that planners ever hear about the installation again after they approve a building permit unless there is a problem. He also indicated that he felt that they needed to do a follow up for that reason.

#### **4.3 Ignorance of Nationwide Programmatic Agreement Regulations**

When the interviewees were asked what they would like to see changed or added to the NPA, Emily and George mentioned clauses that were already mandatory within the NPA application, including the requirement to provide pictures of the historic properties affected, to take photographs of the identified resources angled towards the proposed installation, and to identify how a potential historic structure satisfies the criteria of eligibility. Referring to actual provisions that are present in the NPA indicated a lack of knowledge of the regulations as a whole. The problem of not knowing the NPA regulations does not just pertain to the SHPO but to those compiling the 620/21 applications, because if the above mentioned clauses were being supplied in the packets as required, then the SHPOs would not be asking for them to be added to the NPA.

This problem pertains not only to the state level of government, but also reaches down the ladder to the local government as well. Dan and Bob did not understand before the interview took place how they were even affected by the NPA, or how they could work with their state on



telecommunication installation reviews. In both of these interviews I had to explain that even if they gave building permits for an installation, the state still had to issue permission as well, and that even if their own regulations did not require notice of a telecommunication installation that the NPA requires local governments to be notified. What was most surprising about these two interviews was that both of these towns had local cell tower regulations that were very close to those mandated by the NPA. It is fascinating that even without knowing about the NPA, these local town planners had needs similar to the installation applicants, including identifying the area of potential effect, collocating on existing towers where possible before building a new installation, and providing site plans and photographs of the proposed site.

One regulation that was known by all of the local government interviewees was the Telecommunication Act of 1996 (TA) because this regulation took away local governments' ability to deny all telecommunication installations within their jurisdiction (Levitt, 1998). It was this act that makes many local and state governments feel that every local government should enact telecommunication zoning requirements. George felt that because local governments knew about the TA of 1996, those commissioners and planners should have a plan. He did not seem to understand the need for a local government to have a system for evaluating telecommunication towers since these installations are essential today. Amy and Dan, two local government interviewees whose cities have their own ordinances for telecommunication installations, have found their local regulations to be very helpful, especially when they needed to give reasons why a installation was denied; further, the local commission is also able to give the zoning board a set of guidelines that can be followed for its review process.

#### **4.4 Town or City Owned Properties and Telecommunication Installations**

All of the local-level interviewees mentioned the debate over the preference for town or city land use rather than personal property for telecommunication installations. This debate is between many city or town planners within the same state, several planners feel that they can require town/city owned property to be used for telecommunication installations before privately owned land (if it fulfills the telecommunication criteria), while other planners feel that this is against regulations that depict what city and town officials can require of public land. This debate seems to be swayed depending on how the regulations are interpreted by the planners themselves (many called the regulations “grey areas” where the regulations are not clear and left for interpretation). This subject seemed to make a couple of the interviewees uncomfortable (Dan and Amy) while others were proud to use public land (Bob). In this struggle, regulation and personal interpretation collide over telecommunication installations. On the one hand, a couple of local governments encourage telecommunication providers to build on town or city owned property so as to collect the revenue to fund maintenance of public green space within the town or city. On the other hand, Dan and Fran felt that requiring the building on public land creates a bias for those reviewing the installation. The reviewers could let an installation be built even if it has an adverse effect because of the revenue the town or city would receive. This situation happened to Fran, the local historic commission interviewee. A tower was built within a historic district on town-owned land even though the local historic commission found it an adverse effect. The town ended up overruling the historic commission and allowed for the installation even though the telecommunication provider stated that it could have relocated up the street, out of the historic district, but not on town-owned land. Fran still feels, to this day, that the commission was betrayed by the other local boards and that the decision left a precedent for

other telecommunication installations in their historic district. When talking about the events that led up to the tower being constructed, Fran still conveys the resentment that comes with the memories.

#### **4.5 Summary**

The main goal of the NPA to standardize the telecommunication review application process for the state has been met according to those interviewed; however, after reviewing the main themes from the interviews one theme distinguishes itself among them. That theme is accountability. All of the major problems are caused by either a person or a government entity not taking responsibility for one issue or another, such as a lack of resources, a lack of knowledge, or a clash of commissions. A lack of resources is the case for the first two themes mentioned in this chapter (thirty-day deadline and installation follow-up), because government offices are required to review these telecommunication installations, they are responsible for having the resources necessary for performing those reviews. In the case of ignorance of the NPA, it is the telecommunications applicant's duty as well as those who are required to review the installations responsibility to understand all of the regulations and requirements that fall under them. Hence, all of the major problems introduced in this chapter have become problems because of a lack of accountability.

## **CHAPTER 5: DISCUSSION**

### **5.1 Introduction**

When I started this paper, my goal was to find out why telecommunication towers were negatively affecting historic resources, in spite of regulations set forth by the NPA. In some instances, towers were built without preapproval from the state or town where they were being placed, they were installed on historic buildings with no consideration of the building itself, and they were constructed in historic locations when other options were available. I also identified a lack of knowledge about the NPA by those it was intended to regulate, preservation opinions that were being ignored, and a lack of sufficient time to review the proposed installations. All of the problems that I identified led to my research questions: Why is not the Nationwide Programmatic Agreement (NPA) being implemented effectively for the protection of historic properties or landscapes from telecommunication towers? How could it be more efficiently and effectively implemented? Answering these questions has been the main goal of this thesis: Why are regulations designed to protect historic resources from telecommunication installations not succeeding?

### **5.2 Discussion**

After conducting the seven interviews with the professionals charged with reviewing telecommunications towers under the NPA, I was able to identify the main themes that evolved to answer my research question. The main theme that was evident at the local level was the lack of knowledge or concern with the NPA regulations. Many of the interviewees either did not know why I wanted to talk to them about telecommunication towers or were not aware how the regulations impacted their work. These issues showed me that knowledge of the regulations is very sparse at the local level of government, a fact which raises a significant question: If the

officials set to review telecommunication towers do not know or care about the regulations that pertain to the towers, how should anyone expect those regulations to be enforced? For this reason some towers constructed after the NPA was enacted have been built without local or state approval. This violation happens because the builders are unaware that they have to seek state and local approval. If the FCC were able to educate local government employees about how the NPA affects them and why it is important that they are notified about the state process, then local governments would feel more comfortable with reviewing and enforcing telecommunication installations, and fewer towers would be built without the local government's knowledge.

This knowledge gap also exposed another theme about local governments: the planners with the most knowledge about telecommunication towers are in the towns and cities where local ordinances for telecommunication towers are in effect. These planners knew more about what they wanted to see within their towns and cities and also knew how to control potentially undesirable or harmful aspects of telecommunication towers. However, even though these towns and cities had their own regulations, many of them were duplicates of the NPA's regulations, which suggests that some of these planners were unaware of the NPA. Most of these local ordinances were created in response to problems that the local government experienced during a telecommunication tower review. Hence, the local governments were finding it difficult to regulate or review telecommunication towers without having these specific ordinances. There may be a relation between the towns and cities that did not have any telecommunication tower ordinances of any kind and the towns and cities that did not want to be interviewed, most likely because they did not understand how they fit within the NPA regulations. This complex set of situations helps show that there may be a disconnect between the local government and the NPA; this could be why so many telecommunication towers are negatively affecting historic resources.

Local governments may not be aware that the NPA is a way that they can legally reject telecommunication towers. If the FCC educates local governments, many more municipalities could enact ordinances for telecommunication towers before a negative impact happens.

At the state level many different problems were identified, one of which is that the SHPOs are so understaffed that they do not have the time or resources to keep up with the number of telecommunication towers that developers are seeking approval for, nor are they able to monitor the towers that have been approved. SHPO employees discussed this problem in the interviews, stating that they wanted a way to close their files with a finalized photograph to make sure that the stipulated work was done. The employees also lamented the time frame of thirty days, which some SHPOs cannot meet because of the amount of applications they receive. These two problems explain why some towers adversely affect historic resources: the SHPO employees cannot possibly monitor every single tower, go out to the site to assure that no resources were left out of the application, and cannot be there when the tower is constructed to make sure telecommunication providers follow all the guidelines.

Therefore, the SHPO relies heavily on an architectural historian, often a hired consultant, who constructs the 620 or 621 packets. However, trusting these consultants can in some cases prove to be ill-advised because they may miss an historic resource or are just unaware of what is happening on site with the project. If the FCC requires applicants to submit finalized photographs of the built towers, the SHPOs could keep track of the towers and also make sure that all requirements were followed or not, without having to spend time and resources sending someone out to the tower site. Also, if the FCC removed the stipulation that applicants who do not hear from the SHPO within thirty days should assume the application is approved, then this change would alleviate pressure to make sure the response reaches the applicant. Here, the idea

is not to eliminate the thirty-day rule, but to ensure the applicant has to receive notice of approval. The SHPO would then have a fail-safe for applicants who never receive the response because of mail issues. The SHPOs that use the no-reply approach can add that stipulation into their own requirements for the applicants.

The SHPO employees not only stated that they had an issue with time, but also mentioned that they would like to see many stipulations changed in the 620/621 forms. Some of these rules are actually already included within the forms. This complaint was interesting because the SHPOs wanted photographs of all of the affected historic resources, reasons why newly identified resources should be added to their resources list, and photographs of the tower site from all effected resources—all of which are stated within the 620 and 621 forms. This disconnect implies that those filling out the forms and putting together the packets are not following the stated guidelines, because if the applicants were, the SHPOs would not want all of the aforementioned criteria. The materials would already be included within the application packet, a fact which shows that SHPOs might need to be educated on what is included in the 620/621 application packets, since the 620/621 forms were recently updated. This education would help SHPO employees learn about what they should expect in the packet.

### **5.3 Limitations**

The main limitation of this thesis was that it was conducted only within the New England area, which means that most of the problems that were identified might be limited to this specific region of the United States. The problems do not include the country as a whole. Having representation only from the New England region means that only the views from this geographical area were gathered. It is possible that other areas of the country may approach problems differently, specifically in regard to historic resources which are evident in the

ordinances created within each region of the United States. The different approaches of each region indicate that if this same thesis were conducted in another region, the result might be a very different set of themes.

Most of the interviews were conducted within an office environment, suggesting that the interviewees might not have been as forthcoming as they would have been in a public environment away from their colleagues and superiors. All of the interviews were conducted in private; however, this does not necessarily mean that the interviewee was open to talking freely about the discussion.

The ratio of males to females within the state and local areas was not symmetrical; more males were interviewed at the local level and more females at the state level. This imbalance was due to the small geographic area of the interviews, but having more of any gender perspective could cause the results to model the behavior of that sex instead of the general behavior of all users. Because men and woman may perceive things differently, this limitation may suggest a possible bias in the problems that were discussed.

## **5.4 Recommendations**

The recommendations I suggest for improving the practice of historic preservation in light of the increased need for telecommunication installations are to revise three regulations that are part of the NPA, to change how local ordinances are included in the NPA, and to offer education about the NPA to those who are required to follow its guidelines.

The weaknesses of the NPA exposed during the interview process include the challenges of the thirty-day deadline, the lack of installation follow-up after approval, and the need for better adherence to the regulations in place. The NPA thirty-day deadline, which allows for



installations to be built if the submitting installation company does not hear from the SHPO within thirty days, should not be a restriction enforced by the NPA. This stipulation of giving notice or approval from the SHPO should be decided by each individual SHPO. I believe this change should be implemented because each SHPO has different demands and different staff to handle those demands. Only one out of three SHPO offices preferred not giving the telecommunication company documentation after a decision had been made. The other two SHPO officials were dismayed that those companies could move forward without a direct authorization from them.

The discussion of the thirty-day deadline also involves an issue with time constraints: that local government and their commissions do not have enough time to give their decisions to the SHPO for the state's thirty-day deadline. Currently, the NPA requires the local government to be notified when the telecommunication 620/621 packet is submitted, with the rare possibility of notifying local officials before submission. The NPA should change this stipulation that local governments and SHPOs are notified at the same time; all local requirements, be they variances or permits, need to be approved before a 620/621 packet is submitted to the SHPO. This change could help the review process in two ways. The SHPO will not be wasting time reviewing an installation submission that will not be built because it cannot pass local ordinances, and it will also ensure that the SHPO knows that all submitted projects have no local issues, which is something that can tie up and delay a review at the SHPO level.

Another regulation missing from the NPA involves built telecommunication installation follow-up. I feel that this is a disturbing oversight in the NPA. In a country where the government is based on checks and balances, where is the checking here? Ideally, every installation should adhere to construction documents strictly, but changes do happen on job sites

regarding installation. The SHPO and reviewer cannot take it on good faith that the telecommunication companies are reporting those changes or that they are choosing the best way to handle the adjustments to the installations.

Education about the NPA is another significant issue that needs to be addressed based on my research in this thesis. As stated earlier (sections 4.3 and 5.2) many of the local governments were unaware that the NPA required them to be notified, let alone that their commissions could have a part to play in the NPA. Further, SHPOs are not fully aware of everything that is required within the submitted packets. This issue is deeply concerning because the regulation has been in effect since 2004. The FCC needs to take a more active role in educating all of those required to be notified and who participate. If each SHPO had an education session taught by the FCC on what they require and why it is in the NPA, then the SHPOs in turn could host education sessions for all of their local government officials. This process would help each level of government take responsibility for its part of the NPA and help all participants understand regulatory expectations. This step is key for the NPA to continue productively. Most of the SHPO employees and town planners were not yet in office when the NPA was introduced, so a form of education should be provided every couple of years for those who enter into those positions.

My recommendations for future research on this matter are to conduct interviews in as many areas of the United States as possible to gain a broader sense of the scope of the problem and possible solutions. I also suggest that all interviews should be conducted away from the interviewee's work environment. To have people take time out of their personal lives could prove difficult, but it will help alleviate any anxiety about sharing true feelings on the subject in question. I also suggest that future researchers try to keep the gender of the interviewees within each level of government symmetrical.

## 5.5 Conclusions

The result of this study indicates that although there are many opinions on the current NPA and the regulations enforced under it, the NPA is not as effective as it could be for protecting historic resources. This finding is indicated by the problems identified within the Results chapter of this thesis: enforcing the regulations that the NPA already has in place, changing or adding regulations, and expanding the knowledge of the NPA. It is evident that there are many opinions on where the NPA can be improved, but the fact that multiple possibilities were provided in this study proves that this act, in the minds of those who work under it, is lacking in some form. In order to improve the NPA the first that must take place is a formal review, which would set the NPA on the course where changes could be made.

If any of the themes that were identified during this study were implemented into the NPA, the result would be a strengthened regulation, which in turn will help reduce the amount of future adversely affected historic resources within the United States. The constantly expanding and evolving telecommunication field needs the FCC, through the NPA, to protect historic resources from the constantly expanding and evolving telecommunication industry. However, if the NPA does not change and or keep up with the telecommunication field, it is likely that the United States will continue to see many more historic resources adversely affected by telecommunication installations and by any future advancement in telecommunication technology.

## REFERENCES

- Ankeny, J. (2005). *Innovation in site*. Wireless Review, 22(2), 14-17.
- Bear, D. (2003). *Some Modest Suggestions for Improving Implementation of the National Environmental Policy Act*. Natural Resources Journal, 43(4), Available at SSRN: <http://ssrn.com/abstract=601765>
- Constructionist. (n.d.). *Collins English Dictionary - Complete & Unabridged 10th Edition*. Retrieved March 01, 2012, from Dictionary.com website: <http://dictionary.reference.com/browse/constructionist>
- CTIA (2013). *Semi Annual Year End 2012 Top Line Survey Results*. Retrieved June 16, 2013 from <http://www.ctia.org/advocacy/index.cfm/AID/10316>
- Dichiara, L. (1997). *Wireless Communication Facilities: Siting for Sore Eyes*. Pace Law Review, 6(1), 1-34.
- Evans, S. (1998). *Wireless Service Procedures V. Zoning Commission: Preservation of State and Local Zoning Authority Under the Telecommunication Act of 1996*. Georgia Law Review. 32 (3), 965-1016.
- FCC 04-222. (2004). *Nationwide Programmatic Agreement*. October 4, 2011. [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-04-222A3.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-222A3.pdf)
- FCC: *Collocation of Wireless Antennas*. October 4, 2011. <http://wireless.fcc.gov/releases/da010691a.pdf>
- FCC: Encyclopedia (2011). *Rule Making Process at the FCC*. Retrieved December 04, 2012, from FCC.gov website: <http://www.fcc.gov/encyclopedia/rulemaking-process-fcc>
- FCC: Learning Interactive Unit (2005). *Nationwide Programmatic Agreement*. October 8, 2011. <http://wireless.fcc.gov/siting/npa/intro.html>
- Hanley, L. (1999-2000). *Wireless Communications and the Telecommunications Act of 1996: An Experiment in Federalism*. Loyola Consumer Law Review, 12 (1), 48-67
- King, T. (2004) *Cultural Resource: Laws & Practice*. 2nd Edition. Lanham, Maryland. Alta Mira Press, 22.
- King, T. (2009). *Our Unprotected Heritage: Whitewashing the Destruction of Our Cultural and Natural Environment*. Walnut Creek, Cali. Left Coast Press.
- Lettie, M. (n.d). *The National Environmental Policy Act: Judicial Misconstruction, Legislative Indifference, and Executive Neglect*. Political Science Quarterly, 118(4), 709-712.

- Levitt, B. (1998). *Cell-Phone Towers and Communities: The Struggle for Local Control*. Orion Afield. September, 28, 2011, [http://arts.envirolink.org/arts\\_and\\_activism/BlakeLevitt.html](http://arts.envirolink.org/arts_and_activism/BlakeLevitt.html).
- Longley, R. (2012). *Federal Regulations*. Retrieved December 4, 2012, from About.com Guide website: [http://usgovinfo.about.com/od/uscongress/a/fedregulations\\_2.htm](http://usgovinfo.about.com/od/uscongress/a/fedregulations_2.htm)
- Lopata, S. (1999). *Monumental Changes: Stalling Tactics and Moratoria on Cellular Tower Siting*. Washington University Law Quarterly, 77(1), 193-218.
- Mandelker D. (2010). *The National Environmental Policy Act: A Review of Its Experience and Problems*, Washington University Journal of Law and Policy, 32(1), 293-312.
- Martin, S. L. (1997). *Communications Tower Sitings: The Telecommunications Act of 1996 and the Battle for Community*, Berkeley Technology Law Journal, 12(2), 483.
- Nagle, J. C. (2009). *Cell Phone Towers as Visual Pollution*. Notre Dame Journal of Law, Ethics & Public Policy, 23(2), 537-568.
- National Environmental Policy Act of 1969. (n.d.) West's Encyclopedia of American Law, edition 2.(2008). Retrieved June 18 2013 from <http://legal-dictionary.thefreedictionary.com/National+Environmental+Policy+Act+of+1969>
- National Preservation Institute (2013). *Environmental Assessment*. Retrieved June 18, 2013 from <http://www.npi.org/NEPA/assessment>
- Positivist. (n.d.). Collins English Dictionary - Complete & Unabridged 10th Edition. Retrieved March 01, 2012, from Dictionary.com website: <http://dictionary.reference.com/browse/positivist>
- Public Law No. 91-190. (1969) *National Environmental Policy Act* (NEPA). October 14, 2011. [http://www.nps.gov/history/local-law/FHPL\\_NtlEnvirnPolcy.pdf](http://www.nps.gov/history/local-law/FHPL_NtlEnvirnPolcy.pdf)
- Public Law. No. 102-575. (1966) *National Historic Preservation Act of 1966*. October 13, 2011. <http://www.nps.gov/history/local-law/nhpa1966.htm>
- Public Law. No. 104-104, 110 Stat. 56 (1996). *Telecommunications Act of 1996*. October 13, 2011. <http://transition.fcc.gov/telecom.html>
- Richman, R. (2002). *Local Government, Federalism, and the Telecommunications Revolution*. State & Local Government Review. 34 (2), 133-144.
- Sreevidya, S., & Subramanian, N. (2003). *Aesthetic appraisal of antenna towers*. Journal of Architectural Engineering, 9(3), 102-108.

- State of South Carolina (2011). *Section 106 Review of Federal Projects*. Retrieved June 18, 2013 from <http://shpo.sc.gov/programs/revcomp/Pages/106process.aspx>.
- Tan, G. (1997). *Wading Through the Rhetoric of the Telecommunications Act of 1996: Uncertainty of Local Zoning Authority Over Wireless Telecommunications Tower Siting*, 22 Vt. L. Rev. 461.
- United States. Executive Office of the President. *The National Environmental Policy Act: A Study of Its Effectiveness After Twenty-five Years*. Washington D.C.. UNT Digital Library. September, 28, 2011, <http://digital.library.unt.edu/ark:/67531/metadc31142>.
- Warren, Carol (2002). *Qualitative Interviewing*. J. Gubrium (Ed.), Handbook of Interview Research: Context and Methods (pp. 83-101). Thousand Oaks, CA: Sage Publications Inc.
- Weiland, P. (1997). *Amending the National Environmental Policy Act: Federal Environmental Protection in the Twenty-First Century*. Journal of Land Use & Environmental Law, 12(2), 275-302.
- White House (n.d.). Council on Environmental Quality. Retrieved June 16, 2013 from <http://www.whitehouse.gov/administration/eop/ceq>
- Wikle, T. A. (2002). *Cellular Tower Proliferation in the United States*. Geographical Review, 92(1), 45.

## **APPENDIX A**

**Roger Williams University**

**Human Subject Review Board Application**

65-13-09-30

**ROGER WILLIAMS UNIVERSITY  
HUMAN SUBJECT REVIEW BOARD  
COVER SHEET FOR NEW INDIVIDUAL RESEARCH PROJECT PROPOSALS**

Name of Principle Investigator: Laura L. Briggs  
Date of Submission: September 25, 2013  
Department: Historic Preservation  
School: Architecture Art and Historic Preservation  
Name of Principle Investigators: Laura L. Briggs  
Name of Faculty Advisor: Jeremy Wells, PH.D.  
(required for students) The Ineffectiveness of the National Programmatic Agreement  
Title of Research Project: For Cell Phone Towers  
Grant funding supporting this research: N/A

Researcher code of ethics: I declare that I have read the Roger Williams University Statement of Researchers' Ethical Principles for the Protection of Human Subjects of Research and am familiar with my obligations thereunder. Furthermore, I agree to abide by that Statement of Ethical Principles adopted by Roger Williams University as part of the Human Subject Review Board policy.

Laura L. Briggs  
Investigator's signature

Review status sought by principle investigator. Circle one using the guidelines published by the HSRB. Note that the HSRB may change the status of the review.

EXEMPT

EXPEDITED

FULL

Signature of Department Chair (where applicable) \_\_\_\_\_

Signature of Dean \_\_\_\_\_

Jeremy Wells

For HSRB Board use only:

Committee decision regarding review status:

EXEMPT

EXPEDITED

FULL

✓ Approved

Resubmit

Janice P...  
Signature of Chairperson

10/01/13  
Date

\_\_\_\_\_  
Signature of Chief Academic Officer

Date



## Consent Form

**Title of Project:** The Ineffectiveness of the National Programmatic Agreement for Cell Phone Towers

**Principal Investigator:** Laura L. Briggs

**Other Investigators:** Jeremy C. Wells, Ph.D.

### Appendix: Consent Form

I am aware that my participation in this interview is voluntary. I understand the intent and purpose of this research is to identify my personal experience with cell phone tower regulations and my personal views of the current regulations effectiveness. If, for any reason, at any time, I wish to stop the interview, I may do so without having to give an explanation.

I am aware that data collected from this interview will be used in a graduate thesis that will be publicly available at the University Library on the Roger Williams University Campus and Website. I have the right to review, comment on, and/or withdraw information prior to the graduate thesis' submission in May 2012. The data gathered in this study are confidential with respect to my personal identity, unless I specify otherwise, only the principle investigator (Laura L Briggs) and other investigator (Jeremy C. Wells) will have access to my identity and to any information that can be associated with me. I understand that this interview will be recorded unless I specify otherwise and I understand if I say anything that I believe may incriminate myself, the interviewer will immediately delete or record over the incriminating information. The interviewer will then ask me if I would like to continue the interview.

If I have any questions about this study, I am free to contact the principle investigator (Laura L. Briggs, [lbriggs377@live.com](mailto:lbriggs377@live.com), (406) 698-1795 or the faculty advisor (Jeremy C. Wells, Ph. D., [jwells@rwu.edu](mailto:jwells@rwu.edu), (401) 254-5338). If I have any questions about my rights as a research participant, I am free to contact the chair of the Human Subject Review Board: Stephanie P. Manzi, Ph. D. ([smanzi@rwu.edu](mailto:smanzi@rwu.edu), (401) 254-3369).

I am aware that my participation in this interview is voluntary and that all steps have been taken to keep my identity confidential, to deter any foreseeable risks to my personal or professional reputation.

I have been offered a copy of this form that I may keep for my own reference.

This is to certify that I consent to or give permission for my participation as a volunteer in this research study. I have read this form and understand the content.

\_\_\_\_\_  
Participant's signature

\_\_\_\_\_  
Date

This is to certify that I have defined and explained this research study to the participant named above.

\_\_\_\_\_  
Investigator's signature

\_\_\_\_\_  
Date

## **APPENDIX B**

### **FCC 620 and 621 Forms**

## Information and Instructions

Approved by OMB  
3060 -1039Est. Avg. Burden  
Per Response:  
.5 to 10 Hrs**FCC Wireless Telecommunications Bureau  
New Tower ("NT") Submission Packet****NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT OF 1974 AND  
THE PAPERWORK REDUCTION ACT OF 1995**

We have estimated that each response to this collection of information will take on average 5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Washington, DC 20554, Paperwork Reduction Project (3060-1039). We will also accept your comments via the Internet if you send them to [PRA@fcc.gov](mailto:PRA@fcc.gov). *Please do not send completed application forms to this address.*

You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection unless it displays a currently valid OMB control number with this notice. This collection has been assigned OMB control number 3060-1039.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of a statute, FCC regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party to a proceeding before the body or has an interest in the proceeding.

All parties and entities doing business with the Commission must obtain a unique identifying number called the FCC Registration Number (FRN) and supply it when doing business with the Commission. Failure to provide the FRN may delay the processing of the application. This requirement is to facilitate compliance with the Debt Collection Improvement Act of 1996 (DCIA). The FRN can be obtained electronically from the FCC's website at <http://www.fcc.gov> or by manually submitting FCC Form 160. FCC Form 160 is available from the FCC's web site at <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-FORM (3676), or from the FCC's Fax Information System by dialing (202) 418-0177.

This notice is required by the Privacy Act of 1974, Public Law 93-579, December 31, 1974, 5 U.S.C. Section 552a (e)(3), and the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.





## **General Instructions**

### **Purpose of Form**

FCC Form 620 is the **NT Submission Packet** to be completed by or on behalf of Applicants to construct new antenna support structures by or for the use of applicants, tower owners, and licensees of the Federal Communications Commission ("FCC"). The Packet (including Form 620 and attachments) is to be submitted to the State Historic Preservation Office ("SHPO") or to the Tribal Historic Preservation Office ("THPO"), as appropriate, before any construction or other installation activities on the site begin. Failure to provide the Submission Packet and complete the review process under Section 106 of the National Historic Preservation Act ("NHPA") prior to beginning construction may violate Section 110(k) of the NHPA and the Commission's rules. The instructions below should be read in conjunction with, and not as a substitute for, the "Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission," dated September 2004, ("Nationwide Agreement") and the relevant rules of the FCC (47 C.F.R. §§ 1.1301-1.1319) and the Advisory Council on Historic Preservation ("ACHP") (36 C.F.R. Part 800).<sup>1</sup>

### **Exclusions and Scope of Use**

The NT Submission Packet should not be submitted for undertakings that are excluded from Section 106 Review. The categories of new tower construction that are excluded from historic preservation review under Section 106 of the NHPA are described in Section III of the Nationwide Programmatic Agreement. Where an undertaking is to be completed but no submission will be made to a SHPO or THPO due to the applicability of one or more exclusions, the Applicant should retain in its files documentation of the basis for each exclusion should a question arise as to the Applicant's compliance with Section 106.

The NT Submission Packet is to be used only for the construction of new antenna support structures. Antenna collocations that are subject to Section 106 review should be submitted using the Collocation ("CO") Submission Packet (FCC Form 621).

### **Electronic Filers**

Information about online filing of Form 620 is available from the Wireless Telecommunications Bureau website at [http://wireless.fcc.gov/outreach/index.htm?job=tower\\_notification](http://wireless.fcc.gov/outreach/index.htm?job=tower_notification).

Applicants filing electronically should follow procedures contained in online help files. For technical assistance with filing electronically, contact the FCC at (877) 480-3201.

In instances where the Applicant files electronically and needs to include an exhibit(s) with the application and cannot transmit that exhibit(s) to the FCC electronically, the Applicant may mail exhibits to the following address:

Federal Communications Commission  
Application Exhibit  
1270 Fairfield Road  
Gettysburg, PA 17325-7245

Hand-deliveries and messenger-deliveries should be delivered to Federal Communications Commission, 1280 Fairfield Road, Gettysburg, PA 17325.

Each exhibit should be clearly labeled with the Applicant's name, the 10-digit file number assigned to the application at the time of submission, and the type of exhibit (e.g., resumes/vitae, maps, photographs, etc.).

### **Filing Locations**

Paper applications should be submitted to the State Historic Preservation Office ("SHPO") or to the Tribal Historic Preservation Office ("THPO"), as appropriate, before any construction or other installation activities on the site begin. Failure to provide the Submission Packet and complete the review process under Section 106 of the National Historic Preservation Act ("NHPA") (16 U.S.C. § 470(f)) prior to beginning construction may violate Section 110(k) of the NHPA and the Commission's rules.

### **Exhibits**

Each document required to be filed as an exhibit should be current as of the date of filing. Each page of every exhibit must be identified with the number or letter of the exhibit, the number of the page of the exhibit, and the total number of pages of the exhibit. If material is to be incorporated by reference, see the instruction on incorporation by reference.

Note: Some Commission rules require Applicants to attach one or more exhibits to an application in addition to the information requested in the application form.

### **Incorporation by Reference**

You may incorporate by reference documents, exhibits, or other lengthy showings already on file with the FCC, SHPO or THPO only if the information previously filed is more than one 8 1/2" by 11" page in length, all information therein is current and accurate in all significant respects, and the reference states specifically where the previously filed information can be found including exhibit and page references. Items that call for numbers or that can be answered "Y" or "N" or with other short answers must be answered directly without reference to a previous filing.

### **Assistance with Completing this Form**

For assistance with this form, you may visit the FCC's webpage at <http://esupport.fcc.gov> or call (877) 480-3201 (TTY (717) 338-2824). To provide quality service and ensure security, all telephone calls are recorded.

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<sup>1</sup> Section II.A.9. of the Nationwide Programmatic Agreement defines a "historic property" as: "Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian Organization that meet the National Register criteria."



## Instructions for FCC Form 620

### General Information

**Item 1** Indicate the purpose for which the application is being filed by inserting the appropriate two-letter abbreviation from the following list. Only one purpose may be specified.

**Item 2** If the application is a request for an Update or Withdrawal of a previously-filed currently pending application, provide the file number of the original application. This information can be obtained by contacting the FCC (877) 480-3201 (TTY 717-338-2824).

### Applicant/Contact Information

#### Applicant/Contact Information

**Item 3** Enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

**Items 4-17** Enter the name of applicant in Item 4. Enter the individual to contact in Items 5 through 8 as well as the title in Item 9. You may enter a post office box number in Item 10 or a street address in Item 11, or enter information for both items. Enter the city, state, and zip code in Items 12, 13, and 14. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 15. Enter the fax number (including area code) and e-mail address, if desired and available, in items 16 and 17.

### Consultant Information

#### Consultant/Principal Investigator/Principal Investigator Contact Information

**Item 18** Enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

**Items 19-32** Enter the name of consultant in Item 19. Enter the Principal Investigator in Items 20 through 23 as well as the title in Item 24. You may enter a post office box number in Item 25 or a street address in Item 26, or enter information for both items. Enter the city, state, and zip code in Items 27, 28, and 29. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 30. Enter the fax number (including area code) and e-mail address, if desired and available, in items 31 and 32.

#### Consultant Information Attachments

You are required to provide a current copy of the resume or curriculum vitae for the Principal Investigator and any researcher or other person who contributed to, reviewed, or provided significant input into the research, analysis, writing or conclusions presented in this filing.

#### Professional Qualification

**Items 33 & 34** Check Yes or No in Item 33 if the Principal Investigator satisfies the Secretary of the Interior's Professional Qualification Standards and select the area(s) of professional qualification in Item 34.

**NOTE:** The Professional Qualification Standards are available on the cultural resources webpage of the National Park Service, Department of the Interior: <[http://www.cr.nps.gov/local-law/arch\\_stnds\\_9.htm](http://www.cr.nps.gov/local-law/arch_stnds_9.htm)>. The Nationwide Programmatic Agreement requires use of Secretary-qualified professionals for identification and evaluation of historic properties within the APE for direct effects, and for assessment of effects. The Nationwide Programmatic Agreement encourages, but does not require, use of Secretary-qualified professionals to identify historic properties within the APE for indirect effects. See Nationwide Programmatic Agreement, §§ VI.D.1.d, VI.D.1.e, VI.D.2.b, VI.E.5.

#### Additional Staff

**Items 35 through 41** Check Yes or No in Item 35 if there are other staff involved who meet the Professional Qualification Standards of the Secretary of the Interior. If "Yes" is checked, enter the name of the additional staff and select the appropriate area(s) of professional qualification. Items 37, 39 & 40 are optional. This section may be copied to include other additional staff.

**NOTE:** The Professional Qualification Standards are available on the cultural resources webpage of the National Park Service, Department of the Interior: <[http://www.cr.nps.gov/local-law/arch\\_stnds\\_9.htm](http://www.cr.nps.gov/local-law/arch_stnds_9.htm)>. The Nationwide Programmatic Agreement requires use of Secretary-qualified professionals for identification and evaluation of historic properties within the APE for direct effects, and for assessment of effects. The Nationwide Programmatic Agreement encourages, but does not require, use of Secretary-qualified professionals to identify historic properties within the APE for indirect effects. See Nationwide Programmatic Agreement, §§ VI.D.1.d, VI.D.1.e, VI.D.2.b, VI.E.5.

### Site Information

#### TCNS/Site Information

**Items 1 through 7** Enter the TCNS notification number in Item 1 (optional). Enter the site name, address, nearest city, state, zip code and county/borough/parish in Items 2 through 7 respectively. Item 7 must be completed with the County/Borough/Parish or equivalent entity in which the tower is located unless any of the following pertain to the Fixed Location:

- The City entered in Item 4 is an Independent City that is not affiliated with a County/Borough/Parish (e.g., Baltimore, MD)
- The State code entered in Item 5 does not have Counties/Boroughs/Parishes, enter the equivalent entity (e.g., Puerto Rico, Virgin Islands)
- The State code entered in Item 5 is GM, Gulf of Mexico

**NOTE:** If the nearest City, County/Borough/Parish or equivalent entity and State are located in a bordering County/Borough/Parish or equivalent



entity and/or State, enter a complete description of the location in Item 3 as shown in the example. Complete Item 4 if a City, Town or Village within the tower's County/Borough/Parish or equivalent entity is nearby, and complete Items 5, 6 and 7 with the State, Zip Code and County/Borough/Parish or equivalent entity in which the coordinates are actually located.

Example: 3) (Site Address) Summit Mtn near Palo Verde, Imperial County, CA  
4) (City) Palo Verde  
5) (State) AZ  
7) (County/Borough/Parish) La Paz

Item 8 Enter the nearest crossroads to the tower site.

Item 9 Enter the latitude using the format *DD-MM-SS.S*, where the degrees (*DD*) term can have a value in the range of 0 to 72, minutes (*MM*) can range from 0 to 59, and seconds (*SS.S*) can range from 0 to 59.9. The seconds should be rounded to the nearest tenth of a second (in which case, use the format *DD-MM-SS.S*). Specify the direction as either N for North or S for South.

Item 10 Enter the longitude using the format *DDD-MM-SS*, where the degrees (*DDD*) term can have a value in the range of 64 to 180, minutes (*MM*) can range from 0 to 59, and seconds (*SS.S*) can range from 0 to 59.9. The seconds should be rounded to the nearest tenth of a second (in which case, use the format *DDD-MM-SS.S*). Specify the direction as either E for East or W for West.

**NOTE:** All coordinates must be referenced to the North American Datum of 1983 (NAD83). This information can be determined in many ways, including using a GPS receiver, or a 7.5-minute topographical quadrangle map of the area, or you may consult the city or county/borough/parish surveyor in your area. Topographical maps may be purchased from the U.S. Geological Survey, Washington, DC 20242 or from its office in Denver, Colorado 80225.

#### **Site Information Attachments**

You are required to provide photographs and maps as part of this filing. Additional site information can be provided in an optional attachment.

#### **Photograph Requirements:**

Except in cases where no Historic Properties were identified within the Areas of Potential Effects, submit photographs as described below. Photographs should be in color, marked so as to identify the project, keyed to the relevant map or text, and dated; the focal length of the lens and the height of the camera should be noted. The source of any photograph included but not taken by the Applicant or its consultant (including copies of historic images) should be identified on the photograph.

- a. Photographs taken from the tower site should show views from the proposed location in all directions. The direction (e.g., north, south, etc.) should be indicated on each photograph, and, as a group, the photographs should present a complete (360 degree) view of the area around the communications tower or non-tower structure.
- b. Photographs of all listed and eligible properties within the Areas of Potential Effects.
- c. If any listed or eligible properties are visible from the proposed tower site, photographs looking at the site from each historic property. The approximate distance in feet (meters) between the site and the historic property should be included. If any listed or eligible properties are within the APE, photos looking at each historic property should be included.

Include aerial photos of the APE for visual effects, if available. There are a variety of publicly available websites that provide aerial photographs.

#### **Map Requirements:**

Include one or more 7.5-minute quad USGS topographical maps that:

- a. Identify the Areas of Potential Effects for both Direct and Visual Effects. If a map is copied from the original, include a key with name of quad and date.
- b. Show the location of the proposed tower site and any new access roads or other easements including excavations.
- c. Show the locations of each property listed.
- d. Include keys for any symbols, colors, or other identifiers.
- e. Submit color maps whenever possible.

#### **Additional Site Information Recommendations:**

Describe any additional structures, access roads, utility lines, fences, easements, or other construction planned for the site in conjunction with the proposed tower and related facilities. Use this attachment to provide additional details needed to provide a full and accurate description of any structural alterations, additions, or other construction activities that will take place to complete the tower.

#### **Tower Information**

Item 11 Enter the tower height above ground (including top-mounted attachments such as lightning rods). Indicate whether you provided the height in feet or meters.

Item 12 Select the type of tower (only select one choice). If selecting "Other", describe the structure.

#### **Project Status**

##### **Current Project Status**

Item 13 Select the appropriate category of the status of the project. When selecting "Construction has commenced, but is not completed", enter the date the construction commenced. When selecting "Construction has been completed", enter the date the construction commenced and the date the construction was completed.

**NOTE:** Failure to submit this form and complete the review process under Section 106 of the NHPA prior to beginning construction may violate Section 110(k) of the NHPA and the Commission's rules. See Section X of the Nationwide Agreement.



## **Determination of Effect**

### **Direct Effects**

**Item 14** Select the appropriate direct effect. Choose only one option.

**NOTE:** Pursuant to Section VI.D.2.a. of the Nationwide Programmatic Agreement, Applicants shall make a reasonable and good faith effort to identify above ground and archeological historic properties, including buildings, structures, sites, objects and historic districts, that lie within the APE for direct effects. Such reasonable and good faith efforts may include a field survey where appropriate.

**ADDITIONAL NOTE:** Under Section VI.D.2.d. of the Nationwide Programmatic Agreement, an archeological field survey is required if an Indian tribe or NHO provides evidence that supports a high probability of the presence of intact archeological Historic Properties within the APE for direct effects.

### **Visual Effects**

**Item 15** Select the appropriate visual effect. Choose only one option.

**NOTE:** Section VI.D.1.a. of the Nationwide Programmatic Agreement requires the Applicant to review publicly available records to identify historic properties within the APE for visual effects: i) properties listed on the National Register; ii) properties formally determined eligible for listing by the Keeper of the National Register; iii) properties that the SHPO/THPO certifies are in the process of being nominated to the National Register; iv) properties previously determined eligible as part of a consensus determination of eligibility between the SHPO/THPO and a Federal Agency or local government representing the Department of Housing and Urban Development (HUD); and, v) properties listed in the SHPO/THPO Inventory that the SHPO/THPO has previously evaluated and found to meet the National Register criteria, and that are identified accordingly in the SHPO/THPO Inventory. Section VI.D.1.a also requires the Applicant to identify historic properties that have religious or cultural significance to Tribes and Native Hawaiian Organizations.

## **Determination of Effect Attachments**

You are required to provide two attachments regarding the Determination of Effect: Areas of Potential Effect and Mitigation of Effect (if applicable).

### **Areas of Potential Effect Guidelines:**

- a. Describe the APE for direct effects and explain how this APE was determined.
- b. Describe the APE for visual effects and explain how this APE was determined.

### **Mitigation of Effect Guidelines:**

In the case where an Adverse Visual Effect or Adverse Direct Effect has been determined you must provide the following:

- a. Copies of any correspondence and summaries of any oral communications with the SHPO/THPO and any consulting parties. Describe any alternatives that have been considered that might avoid, minimize, or mitigate any adverse effects. Explain the Applicant's conclusion regarding the feasibility of each alternative.

## **Tribal/NHO Involvement**

**(NOTE: This page may be copied for additional Tribes/NHOs contacted)**

**Item 1** Check Yes or No if Indian Tribes or Native Hawaiian Organizations (NHOs) have been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects.

**Items 2a & 2b** Enter the TCNS Notification Number and the number of Tribes/NHOs contacted electronically or through an alternate system.

**Item 3** If available, enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or the FCC's Fax Information System by dialing (202) 418-0177.

**Item 4** Enter the Tribe/NHO name.

**Items 5 through 9** Enter the name and title of the individual to contact in Items 5 through 9.

**Items 10 & 11** Enter the date contacted (MM/DD/YYYY) and date replied (MM/DD/YYYY) and select the option that corresponds to the contact method and the response.

## **Tribal/NHO Involvement Attachments**

You may be required to provide a Tribal/NHO Involvement attachment(s) (if applicable).

### **Tribal/NHO Involvement Attachment Guidelines**

At an early stage in the planning process, the Nationwide Agreement requires the Applicant to gather information from appropriate Indian Tribes or Native Hawaiian Organizations ("NHOs") to assist in the identification of historic properties of religious and cultural significance to them. Describe measures taken to identify Indian Tribes and NHOs that may attach religious and cultural significance to historic properties that may be affected by the tower project within the Areas of Potential Effects ("APEs") for direct and visual effects. If such Indian tribes or NHOs were identified, list them and provide a summary of contacts by the FCC, the Applicant, or the Applicant's representative. Provide copies of relevant documents, including correspondence. If no such Indian Tribes or NHOs were identified, please explain.



### **Other Tribes/NHOs Contacted**

(NOTE: This page may be copied for additional Tribal/NHOs)

### **Tribe/NHO Information/Contact Information**

**Item 1** If available, enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

**Items 2-15** Enter the name of the Tribe/NHO in Item 2. Enter the name and title of the individual to contact in Items 3 through 7. You may enter a post office box number in Item 8 or a street address in Item 9, or enter information for both items. Enter the city, state, and zip code in Items 10, 11, and 12. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 13. Enter the fax number (including area code) and e-mail address, if desired and available, in items 14 and 15.

**Item 16** Select the preferred means of communication.

### **Dates & Response**

**Items 17 & 18** Enter the date contacted (MM/DD/YYYY) and date replied (MM/DD/YYYY) and select the option that corresponds to the contact method and the response.

### **Historic Properties**

(NOTE: This page may be copied for additional historic properties)

### **Properties Identified**

**Item 1** Check Yes or No if any historic properties have been identified within the APEs for direct and visual effect.

**NOTE:** Section II.A.9. of the Nationwide Programmatic Agreement defines a "historic property" as: "Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the National Register maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian Organization that meet the National Register criteria."

Please note that historic units of the National Parks system are listed on the National Register, and that discontinuous units of national parks may be in different jurisdictions.

**Item 2** Check Yes or No if the identification process located archaeological materials that would be directly affected, or sites that are of cultural or religious significance to Tribes/NHOs.

**Item 3** Check Yes or No if there are more than 10 historic properties with the APEs for direct and visual effect. If "Yes", you are required attach a Cultural Resources Report instead of completing items 4 through 10 of this section.

### **Historic Property**

**Items 4 & 5** Enter the property name and the SHPO site number (if any).

### **Property Address**

**Items 6 through 10** Enter a street address in Item 6. Enter the city, state, zip code and county/borough/parish in Items 7, 8, 9 and 10 respectively. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations.

### **Status & Eligibility**

**Item 11** Check Yes or No if the property is listed on the National Register and provide the source.

**Item 12** Check Yes or No if the property is eligible for listing on the National Register and provide the source.

**Item 13** Check Yes or No if the property is a National Historical Landmark.

### **Direct Effects**

**Item 14** Select the appropriate direct effect on the historic property. Choose only one option.

**NOTE:** Pursuant to Section VI.D.2.a. of the Nationwide Programmatic Agreement, Applicants shall make a reasonable and good faith effort to identify above ground and archeological historic properties, including buildings, structures, sites, objects and historic districts, that lie within the APE for direct effects. Such reasonable and good faith efforts may include a field survey where appropriate.

**ADDITIONAL NOTE:** Under Section VI.D.2.d. of the Nationwide Programmatic Agreement, an archeological field survey is required if an Indian Tribe or NHO provides evidence that supports a high probability of the presence of intact archeological Historic Properties within the APE for direct effects.

### **Visual Effects**

**Item 15** Select the appropriate visual effect on the historic property. Choose only one option.

**NOTE:** Section VI.D.1.a. of the Nationwide Programmatic Agreement requires the Applicant to review publicly available records to identify within the APE for visual effects: i) properties listed on the National Register; ii) properties formally determined eligible for listing by the Keeper of the National Register; iii) properties that the SHPO/THPO certifies are in the process of being nominated to the National Register; iv) properties previously determined eligible as part of



a consensus determination of eligibility between the SHPO/THPO and a Federal Agency or local government representing the Department of Housing and Urban Development (HUD); and, v) properties listed in the SHPO/THPO Inventory that the SHPO/THPO has previously evaluated and found to meet the National Register criteria, and that are identified accordingly in the SHPO/THPO Inventory. Section VI.D.1.a also requires the Applicant to identify historic properties that have religious or cultural significance to Tribes and Native Hawaiian Organizations.

### **Historic Properties Attachments**

#### **Historic Properties Identified for Direct Effects Guidelines**

- a. List all properties identified within the APE for direct effects.
- b. Provide the name and address (including U.S. Postal Service ZIP Code) of each property in the APE for direct effects, not listed in part "a", that the Applicant considers to be eligible for listing in the National Register as a result of the Applicant's research. For each such property, describe how it satisfies the criteria of eligibility (36 C.F.R. Part 63). For each property that was specifically considered and determined not to be eligible, describe why it does not satisfy the criteria of eligibility.
- c. Describe the techniques and the methodology, including any field survey, used to identify historic properties within the APE for direct effects.<sup>2</sup> If no archeological field survey was performed, provide a report substantiating that: i) the depth of previous disturbance exceeds the proposed construction depth (excluding footings and other anchoring mechanisms) by at least 2 feet; or, ii) geomorphological evidence indicates that cultural resource-bearing soils do not occur within the project area or may occur but at depths that exceed 2 feet below the proposed construction depth.

#### **Historic Properties Identified for Visual Effects Guidelines**

- a. Provide the name and address (including U.S. Postal Service ZIP Code) of each property in the APE for visual effects that is listed in the National Register, has been formally determined eligible for listing by the Keeper of the National Register, or is identified as considered eligible for listing in the records of the SHPO/THPO, pursuant to Section VI.D.1.a. of the Nationwide Agreement.<sup>3</sup>
- b. Provide the name and address (including U.S. Postal Service ZIP Code) of each Historic Property in the APE for visual effects, not listed in part "a", identified through the comments of Indian Tribes, NHOs, local governments, or members of the public. Identify each individual or group whose comments led to the inclusion of a Historic Property in this attachment. For each such property, describe how it satisfies the criteria of eligibility (36 C.F.R. Part 63).
- b. For any properties listed in part "a", that the Applicant considers no longer eligible for inclusion in the National Register, explain the basis for this recommendation.

### **Local Government Involvement**

(NOTE: This page may be copied for additional local government agencies)

#### **Local Government Agency/Contact Information**

Item 1 If available, enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800)418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

Items 2-15 Enter the name of the local government agency in Item 2. Enter the name and title of the individual to contact in Items 3 through 7. You may enter a post office box number in Item 8 or a street address in Item 9, or enter information for both items. Enter the city, state, and zip code in Items 10, 11, and 12. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 13. Enter the fax number (including area code) and e-mail address, if desired and available, in items 14 and 15.

Item 16 Select the preferred means of communication.

#### **Dates & Response**

Items 17 & 18 Enter the date contacted (MM/DD/YYYY) and date replied (MM/DD/YYYY) and select the option which corresponds to the contact method and the response.

#### **Additional Information**

Item 19 Enter any information on local government's role or interest. (Optional)

#### **Local Government Involvement Attachment(s)**

You may be required to provide a Local Government attachment(s).

#### **Local Government Attachment Guidelines**

- a. If any local government has been contacted and invited to become a consulting party pursuant to Section V.A. of the Nationwide Agreement, list the local government agencies contacted. Provide a summary of contacts and copies of any relevant documents (e.g., correspondence or notices).
- b. If a local government agency will be contacted but has not been to date, explain why and when such contact will take place.

<sup>3</sup> Pursuant to Section VI.D.2.a. of the Nationwide Agreement, Applicants shall make a reasonable and good faith effort to identify above ground and archeological historic properties, including buildings, structures, and historic districts, that lie within the APE for direct effects. Such reasonable and good faith efforts may include a field survey where appropriate.

<sup>2</sup> Section VI.D.1.a. of the Nationwide Agreement requires the Applicant to review publicly available records to identify within the APE for visual effects: i) properties listed in the National Register; ii) properties formally determined eligible for listing by the Keeper of the National Register; iii) properties that the SHPO/THPO certifies are in the process of being nominated to the National Register; iv) properties previously determined eligible as part of a consensus determination of eligibility between the SHPO/THPO and a Federal Agency or local government representing the Department of Housing and Urban Development (HUD); and, v) properties listed in the SHPO/THPO Inventory that the SHPO/THPO has previously evaluated and found to meet the National Register criteria, and that are identified accordingly in the SHPO/THPO Inventory.



### **Other Consulting Parties**

(NOTE: This page may be copied for additional consulting parties)

#### **Other Consulting Parties Contacted**

Item 1 Check Yes or No if any other agency has been contacted and invited to become a consulting party. If "Yes", complete items 2 through 20.

#### **Consulting Party/Contact Information**

Item 2 If available, enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

Items 3-16 Enter the name of the consulting party in Item 3. Enter the name and title of the individual to contact in Items 4 through 8. You may enter a post office box number in Item 9 or a street address in item 10, or enter information for both items. Enter the city, state, and zip code in Items 11, 12, and 13. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 14. Enter the fax number (including area code) and e-mail address, if desired and available, in items 15 and 16.

Item 17 Select the preferred means of communication.

#### **Dates & Response**

Items 18 & 19 Enter the date contacted (MM/DD/YYYY) and date replied (MM/DD/YYYY) and select the option which corresponds to the contact method and the response.

#### **Additional Information**

Item 20 Enter any information on consulting parties' role or interest. (Optional)

#### **Consulting Parties Attachment**

You are required to provide a Public Notice attachment.

#### **Public Notice Guidelines:**

Provide copies of any relevant correspondence or other documentation used to invite public involvement in this project (e.g., legal notices, letters, or public meetings).

### **Designation of SHPO/THPO**

Item 1 Based on the site of the tower, designate the Lead State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) to review this filing. A list of the SHPOs can be found at: <http://www.ncshpo.org/>.

Item 2 If the SHPO/THPO requires sending this filing to a regional office, enter the appropriate person/office as an alternate SHPO/THPO. You may also designate other SHPOs/THPOs as additional recipients if either or both of the APEs include other jurisdictions. In addition, use this item to list the National and State/Provincial Historic Preservation Agencies when either of the APEs includes another country.

#### **Designation of SHPO/THPO Attachments**

You may be required to provide State Specific Forms as additional attachments.

#### **SHPO/THPO Specific Forms:**

The lead SHPO/THPO reviewing this filing may require additional forms specific to its Section 106 review requirements.

### **Certification**

By signing this form, the applicant certifies that the statements listed in this section are true, complete, correct, and made in good faith.

This section must be completed. To be acceptable for filing, applications must be signed in accordance with Part 1 of the FCC rules. The signor must be a person authorized to sign the application. Paper originals of applications must bear an original signature. On paper originals, neither rubber-stamped nor photocopied signatures are acceptable. For filers filing electronically, the electronic signature shall consist of the name of the person authorized to sign typed on the application as a signature.

## Appendix I

### STATE TABLE

#### Abbreviations for States, Jurisdictions, and Areas

AL	Alabama	ND	North Dakota
AK	Alaska	OH	Ohio
AZ	Arizona	OK	Oklahoma
AR	Arkansas	OR	Oregon
CA	California	PA	Pennsylvania
CO	Colorado	RI	Rhode Island
CT	Connecticut	SC	South Carolina
DE	Delaware	SD	South Dakota
DC	District of Columbia	TN	Tennessee
FL	Florida	TX	Texas
GA	Georgia	UT	Utah
GM	Gulf of Mexico	VT	Vermont
HI	Hawaii	VA	Virginia
ID	Idaho	WA	Washington
IL	Illinois	WV	West Virginia
IN	Indiana	WI	Wisconsin
IA	Iowa	WY	Wyoming
KS	Kansas		
KY	Kentucky	AS	American Samoa
LA	Louisiana	CN	Canada
ME	Maine	GU	Guam
MD	Maryland	MP	Northern Mariana Islands
MA	Massachusetts	MX	Mexico
MI	Michigan	PR	Puerto Rico
MN	Minnesota	UM	U.S. Territories: (Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, Palmyra Atoll and Wake Island)
MS	Mississippi		
MO	Missouri	VI	Virgin Islands
MT	Montana		
NE	Nebraska	AA	Armed Forces-Americas (excluding Canada)
NV	Nevada	AE	Armed Forces-(Europe, Middle East, Africa, Canada)
NH	New Hampshire	AP	Armed Forces-Pacific
NJ	New Jersey		
NM	New Mexico		
NY	New York		
NC	North Carolina		

**FCC Wireless Telecommunications Bureau  
New Tower ("NT") Submission Packet**

Approved by OMB

3060 – 1039

See instructions for  
public burden estimates**General Information**

1) (Select only one) (     )		NE – New	UA – Update of Application	WD – Withdrawal of Application
2) If this application is for an Update or Withdrawal, enter the file number of the pending application currently on file.				File Number:

**Applicant Information**

3) FCC Registration Number (FRN):
4) Name:

**Contact Name**

5) First Name:	6) MI:	7) Last Name:	8) Suffix:
9) Title:			

**Contact Information**

10) P.O. Box:	And /Or	11) Street Address:	
12) City:		13) State:	14) Zip Code:
15) Telephone Number: (     )		16) Fax Number: (     )	
17) E-mail Address:			

**Consultant Information**

18) FCC Registration Number (FRN):
19) Name:

**Principal Investigator**

20) First Name:	21) MI:	22) Last Name:	23) Suffix:
24) Title:			

**Principal Investigator Contact Information**

25) P.O. Box:	And /Or	26) Street Address:	
27) City:		28) State:	29) Zip Code:
30) Telephone Number: (     )		31) Fax Number: (     )	
32) E-mail Address:			

**Professional Qualification**

33) Does the Principal Investigator satisfy the Secretary of the Interior's Professional Qualification Standards?	( <input type="checkbox"/> ) <u>Yes</u> ( <input type="checkbox"/> ) <u>No</u>
34) Areas of Professional Qualification: ( <input type="checkbox"/> ) Archaeologist ( <input type="checkbox"/> ) Architectural Historian ( <input type="checkbox"/> ) Historian ( <input type="checkbox"/> ) Architect ( <input type="checkbox"/> ) Other (Specify) _____	

**Additional Staff**

35) Are there other staff involved who meet the Professional Qualification Standards of the Secretary of the Interior?	( <input type="checkbox"/> ) <u>Yes</u> ( <input type="checkbox"/> ) <u>No</u>
--	--

If "Yes", complete the following:

36) First Name:	37) MI:	38) Last Name:	39) Suffix:
40) Title:			
41) Areas of Professional Qualification: ( <input type="checkbox"/> ) Archaeologist ( <input type="checkbox"/> ) Architectural Historian ( <input type="checkbox"/> ) Historian ( <input type="checkbox"/> ) Architect ( <input type="checkbox"/> ) Other (Specify) _____			

**This page may be copied to include additional staff.****Consultant Information Attachments required – See instructions for details.**



## Site Information

### Tower Construction Notification System

1) TCNS Notification Number: \_\_\_\_\_

### Site Information

2) Site Name: \_\_\_\_\_

3) Site Address: \_\_\_\_\_

4) City: \_\_\_\_\_

5) State: \_\_\_\_\_

6) Zip Code: \_\_\_\_\_

7) County/Borough/Parish: \_\_\_\_\_

8) Nearest Crossroads: \_\_\_\_\_

9) NAD 83 Latitude (DD-MM-SS.S): \_\_\_\_\_

(    ) N or (    ) S

10) NAD 83 Longitude (DD-MM-SS.S): \_\_\_\_\_

(    ) E or (    ) W

### Tower Information

11) Tower height above ground level (include top-mounted attachments such as lightning rods): \_\_\_\_\_ (    ) Feet (    ) Meters

12) Tower Type (Select One):

(    ) Guyed lattice tower

(    ) Self-supporting lattice

(    ) Monopole

(    ) Other (Describe): \_\_\_\_\_

### Project Status

13) Current Project Status (Select One):

(    ) Construction has not yet commenced

(    ) Construction has commenced, but is not completed

Construction commenced on: \_\_\_\_/\_\_\_\_/\_\_\_\_

(    ) Construction has been completed

Construction commenced on: \_\_\_\_/\_\_\_\_/\_\_\_\_

Construction completed on: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Site Information Attachments required – See instructions for details.**

**Determination of Effect**

14) Direct Effects (Select One):

- ☐ No Historic Properties in Area of Potential Effects (APE)
- ☐ No Effect on Historic Properties in APE
- ☐ No Adverse Effect on Historic Properties in APE
- ☐ Adverse Effect on one or more Historic Properties in APE

15) Visual Effects (Select One):

- ☐ No Historic Properties in Area of Potential Effects (APE)
- ☐ No Effect on Historic Properties in APE
- ☐ No Adverse Effect on Historic Properties in APE
- ☐ Adverse Effect on one or more Historic Properties in APE

**Determination of Effect Attachments required – See instructions for details.**

### Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(    ) <u>Yes</u> (    ) <u>No</u>
2a) Tribes/NHOs contacted through TCNS Notification Number: _____ Number of Tribes/NHOs: _____	
2b) Tribes/NHOs contacted through an alternate system: _____ Number of Tribes/NHOs: _____	

#### Tribal/NHO Contacted Through TCNS

3) Tribe/NHO FRN: _____
4) Tribe/NHO Name: _____

#### Contact Name

5) First Name: _____	6) MI: _____	7) Last Name: _____	8) Suffix: _____
9) Title: _____			

#### Dates & Response

10) Date Contacted ____/____/____	11) Date Replied ____/____/____
(    ) No Reply	
(    ) Replied/No Interest	
(    ) Replied/Have Interest	
(    ) Replied/Other _____	

**This page may be copied to include additional Tribes/NHOs contacted.**

**Tribal/NHO Involvement Attachments may be required – See instructions for details.**



### Other Tribes/NHOs Contacted

#### Tribe/NHO Information

1) FCC Registration Number (FRN):
2) Name:

#### Contact Name

3) First Name:	4) MI:	5) Last Name:	6) Suffix:
7) Title:			

#### Contact Information

8) P.O. Box:	And /Or	9) Street Address:
10) City:		11) State:
12) Zip Code:		
13) Telephone Number: (     )		14) Fax Number: (     )
15) E-mail Address:		
16) Preferred means of communication:  <input type="checkbox"/> E-mail <input type="checkbox"/> Letter <input type="checkbox"/> Both		

#### Dates & Response

17) Date Contacted ____/____/____	18) Date Replied ____/____/____
<input type="checkbox"/> No Reply <input type="checkbox"/> Replied/No Interest <input type="checkbox"/> Replied/Have Interest <input type="checkbox"/> Replied/Other _____	

This page may be copied to include additional Tribes/NHOs.

## Historic Properties

### Properties Identified

1) Have any historic properties been identified within the APEs for direct and visual effect?	(    ) <u>Yes</u> (    ) <u>No</u>
2) Has the identification process located archaeological materials that would be directly affected, or sites that are of cultural or religious significance to Tribes/NHOs?	(    ) <u>Yes</u> (    ) <u>No</u>
3) Are there more than 10 historic properties within the APEs for direct and visual effect? If "Yes", you are required to attach a Cultural Resources Report in lieu of adding the Historic Property below.	(    ) <u>Yes</u> (    ) <u>No</u>

### Historic Property

4) Property Name:
5) SHPO Site Number:

### Property Address

6) Street Address:		
7) City:	8) State:	9) Zip Code:
10) County/Borough/Parish:		

### Status & Eligibility

11) Is this property listed on the National Register?  Source: _____	(    ) <u>Yes</u> (    ) <u>No</u>
12) Is this property eligible for listing on the National Register?  Source: _____	(    ) <u>Yes</u> (    ) <u>No</u>
13) Is this property a National Historic Landmark?	(    ) <u>Yes</u> (    ) <u>No</u>

14) Direct Effects (Select One):  <input type="checkbox"/> No Effect on this Historic Property in APE <input type="checkbox"/> No Adverse Effect on this Historic Property in APE <input type="checkbox"/> Adverse Effect on this Historic Property in APE
15) Visual Effects (Select One):  <input type="checkbox"/> No Effect on this Historic Property in APE <input type="checkbox"/> No Adverse Effect on this Historic Property in APE <input type="checkbox"/> Adverse Effect on this Historic Property in APE

**This page may be copied to include additional Historic Properties.**  
**Historic Property Attachments required – See instructions for details.**

### Local Government Involvement

#### Local Government Agency

1) FCC Registration Number (FRN):
2) Name:

#### Contact Name

3) First Name:	4) MI:	5) Last Name:	6) Suffix:
7) Title:			

#### Contact Information

8) P.O. Box:	And /Or	9) Street Address:	
10) City:		11) State:	12) Zip Code:
13) Telephone Number: (    )		14) Fax Number: (    )	
15) E-mail Address:			
16) Preferred means of communication: (    ) E-mail (    ) Letter (    ) Both			

#### Dates & Response

17) Date Contacted ____/____/____	18) Date Replied ____/____/____
(    ) No Reply	
(    ) Replied/No Interest	
(    ) Replied/Have Interest	
(    ) Replied/Other _____	

#### Additional Information

19) Information on local government's role or interest (optional):
--

This page may be copied to include additional local government agencies.  
Local Government Attachments required – See instructions for details.

## Other Consulting Parties

### Other Consulting Parties Contacted

1) Has any other agency been contacted and invited to become a consulting party?	(    ) <u>Yes</u> (    ) <u>No</u>
--	------------------------------------

### Consulting Party

2) FCC Registration Number (FRN):
3) Name:

### Contact Name

4) First Name:	5) MI:	6) Last Name:	7) Suffix:
8) Title:			

### Contact Information

9) P.O. Box:	And /Or	10) Street Address:
11) City:	12) State:	13) Zip Code:
14) Telephone Number: (    )	15) Fax Number: (    )	
16) E-mail Address:		
17) Preferred means of communication:		
<input type="checkbox"/> E-mail <input type="checkbox"/> Letter <input type="checkbox"/> Both		

### Dates & Response

18) Date Contacted ____/____/____	19) Date Replied ____/____/____
<input type="checkbox"/> No Reply <input type="checkbox"/> Replied/No Interest <input type="checkbox"/> Replied/Have Interest <input type="checkbox"/> Replied/Other _____	

### Additional Information

20) Information on other consulting parties' role or interest (optional):
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**This page may be copied to include additional consulting parties.  
Consulting Parties Attachments required – See instructions for details.**

### Designation of SHPO/THPO

1) Designate the Lead State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) based on the location of the tower.

#### SHPO/THPO

Name: \_\_\_\_\_

2) You may also designate up to three additional SHPOs/THPOs if the APEs include multiple states. If the APEs include other countries, enter the name of the National Historic Preservation Agency and any state and provincial Historic Preservation Agency.

SHPO/THPO Name: \_\_\_\_\_

SHPO/THPO Name: \_\_\_\_\_

SHPO/THPO Name: \_\_\_\_\_

**Designation of SHPO/THPO Attachments may be required – See instructions for details.**

### Certification

I certify that all representations on this FCC Form 620 Submission Packet and the accompanying attachments are true, correct, and complete.

#### Party Authorized to Sign

First Name:	MI:	Last Name:	Suffix:
Signature:			Date: ____/____/____

**FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.**

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).**



## Information and Instructions

Approved by OMB

3060 -1039

Est. Avg. Burden

Per Response:

.5 to 10 Hrs

**FCC Wireless Telecommunications Bureau  
Collocation ("CO") Submission Packet****NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT OF 1974 AND  
THE PAPERWORK REDUCTION ACT OF 1995**

We have estimated that each response to this collection of information will take on average 5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERF, Washington, DC 20554, Paperwork Reduction Project (3060-1039). We will also accept your comments via the Internet if you send them to [PRA@fcc.gov](mailto:PRA@fcc.gov). *Please do not send completed application forms to this address.*

You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection unless it displays a currently valid OMB control number with this notice. This collection has been assigned OMB control number 3060-1039.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of a statute, FCC regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party to a proceeding before the body or has an interest in the proceeding.

All parties and entities doing business with the Commission must obtain a unique identifying number called the FCC Registration Number (FRN) and supply it when doing business with the Commission. Failure to provide the FRN may delay the processing of the application. This requirement is to facilitate compliance with the Debt Collection Improvement Act of 1996 (DCIA). The FRN can be obtained electronically from the FCC's website at <http://www.fcc.gov> or by manually submitting FCC Form 160. FCC Form 160 is available from the FCC's web site at <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-FORM (3676), or from the FCC's Fax Information System by dialing (202) 418-0177.

This notice is required by the Privacy Act of 1974, Public Law 93-579, December 31, 1974, 5 U.S.C. Section 552a (e)(3), and the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.





## **General Instructions**

### **Purpose of Form**

FCC Form 621 is the CO Submission Packet is to be completed by or on behalf of Applicants who wish to collocate an antenna or antennas on an existing communications tower or non-tower structure by or for the use of licensees of the Federal Communications Commission ("FCC")<sup>1</sup>. The Packet (including Form CO and attachments) is to be submitted to the State Historic Preservation Office ("SHPO") or to the Tribal Historic Preservation Office ("THPO"), as appropriate, before any construction or other installation activities on the site begin. Failure to provide the Submission Packet and complete the review process under Section 106 of the National Historic Preservation Act ("NHPA")<sup>2</sup> prior to beginning construction or other installation activities may violate Section 110(k) of the NHPA and the Commission's rules. The instructions below should be read in conjunction with, and not as a substitute for, the "Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission," dated September 2004, ("Nationwide Agreement"), the "Nationwide Programmatic Agreement for the Collocation of Wireless Antennas" ("Collocation Agreement")<sup>3</sup>, and the relevant rules of the FCC (47 C.F.R. §§ 1.1301-1.1319) and the Advisory Council on Historic Preservation ("ACHP") (36 C.F.R. Part 800)<sup>4</sup>.

### **Exclusions and Scope of Use**

The CO Submission Packet should be submitted only for those collocations that are subject to Section 106 review. The CO Submission Packet should not be submitted for collocations that have been excluded from Section 106 Review by the Collocation Agreement or the Nationwide Programmatic Agreement. Where a collocation is to be completed but no submission will be made to a SHPO or THPO due to the applicability of one or more exclusions, the Applicant should retain in its files documentation of the basis for each exclusion should a question arise as to the Applicant's compliance with Section 106. The CO Submission Packet is to be used only for the collocation of an antenna or antennas on an existing communications tower or a non-tower structure. New tower constructions that are subject to Section 106 review should be submitted using the New Tower ("NT") Submission Packet (FCC Form 620).

### **Electronic Filers**

Information about online filing of Form 621 is available from the Wireless Telecommunications Bureau website at [http://wireless.fcc.gov/outreach/index.htm?job=tower\\_notification](http://wireless.fcc.gov/outreach/index.htm?job=tower_notification).

Applicants filing electronically should follow procedures contained in online help files. For technical assistance with filing electronically, contact the FCC at (877) 480-3201.

In instances where the Applicant files electronically and needs to include an exhibit(s) with the application and cannot transmit that exhibit(s) to the FCC electronically, the Applicant may mail exhibits to the following address:

Federal Communications Commission  
Application Exhibit  
1270 Fairfield Road  
Gettysburg, PA 17325-7245

Hand-deliveries and messenger-deliveries should be delivered to Federal Communications Commission, 1280 Fairfield Road, Gettysburg, PA 17325.

Each exhibit should be clearly labeled with the Applicant's name, the 10-digit file number assigned to the application at the time of submission, and the type of exhibit (e.g., waiver request).

### **Filing Locations**

Paper applications should be submitted to the State Historic Preservation Office ("SHPO") or to the Tribal Historic Preservation Office ("THPO"), as appropriate, before any construction or other installation activities on the site begin. Failure to provide the Submission Packet and complete the review process under Section 106 of the National Historic Preservation Act ("NHPA") prior to beginning construction may violate Section 110(k) of the NHPA and the Commission's rules.

### **Exhibits**

Each document required to be filed as an exhibit should be current as of the date of filing. Each page of every exhibit must be identified with the number or letter of the exhibit, the number of the page of the exhibit, and the total number of pages of the exhibit. If material is to be incorporated by reference, see the instruction on incorporation by reference.

Note: Some Commission rules require Applicants to attach one or more exhibits to an application in addition to the information requested in the application form.

### **Incorporation by Reference**

You may incorporate by reference documents, exhibits, or other lengthy showings already on file only if the information previously filed is more than one 8 1/2" by 11" page in length, all information therein is current and accurate in all significant respects, and the reference states specifically where the previously filed information can be found including exhibit and page references. Items that call for numbers or that can be answered 'Y' or 'N' or with other short answers must be answered directly without reference to a previous filing.

<sup>1</sup> A "communications tower" is a structure built for the sole or primary purpose of supporting FCC licensed antennas and their associated facilities; other structures upon which antennas may be collocated are referred to as "non-tower structures."

<sup>2</sup> 16 U.S.C. § 470(f).

<sup>3</sup> Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, 16 FCC Rcd 5574, 5575-5581 (WTB: March 16, 2001) ("Collocation Agreement"); see also Fact Sheet Regarding the Implementation of the Nationwide Programmatic Agreement with Respect to Collocating Wireless and Broadcast Facilities on Existing Towers and Structures, Notice, 67 Fed. Reg. 5282 (Feb. 5, 2002).

<sup>4</sup> Section II.A.9. of the Nationwide Agreement defines a "historic property" as: "Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or NHO that meet the National Register criteria."

**Assistance with Completing this Form**

For assistance with this form, you may visit the FCC's webpage at <http://esupport.fcc.gov> or call (877) 480-3201 (TTY (717) 338-2824). To provide quality service and ensure security, all telephone calls are recorded.



## Instructions for FCC Form 621

### General Information

**Item 1** Indicate the purpose for which the application is being filed by inserting the appropriate two-letter abbreviation from the following list. Only one purpose may be specified.

**Item 2** If the application is a request for an Update or Withdrawal of a previously-filed currently pending application, provide the file number of the original application. This information can be obtained by contacting the FCC (877) 480-3201 (TTY 717-338-2824).

### Applicant/Contact Information

#### Applicant/Contact Information

**Item 3** Enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

**Items 4-17** Enter the name of applicant in Item 4. Enter the individual to contact in Items 5 through 8 as well as the title in Item 9. You may enter a post office box number in Item 10 or a street address in Item 11, or enter information for both items. Enter the city, state, and zip code in Items 12, 13, and 14. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 15. Enter the fax number (including area code) and e-mail address, if desired and available, in items 16 and 17.

### Consultant Information

#### Consultant/Principal Investigator/Principal Investigator Contact Information

**Item 18** Enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

**Items 19-32** Enter the name of consultant in Item 19. Enter the Principal Investigator in Items 20 through 23 as well as the title in Item 24. You may enter a post office box number in Item 25 or a street address in Item 26, or enter information for both items. Enter the city, state, and zip code in Items 27, 28, and 29. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 30. Enter the fax number (including area code) and e-mail address, if desired and available, in items 31 and 32.

#### Consultant Information Attachments

You are required to provide a current copy of the resume or curriculum vitae for the Principal Investigator and any researcher or other person who contributed to, reviewed, or provided significant input into the research, analysis, writing or conclusions presented in this filing.

#### Professional Qualification

**Items 33 & 34** Check Yes or No in Item 33 if the Principal Investigator satisfies the Secretary of the Interior's Professional Qualification Standards and select the area(s) of professional qualification in Item 34.

**NOTE:** The Professional Qualification Standards are available on the cultural resources webpage of the National Park Service, Department of the Interior: <[http://www.cr.nps.gov/local-law/arch\\_stnds\\_9.htm](http://www.cr.nps.gov/local-law/arch_stnds_9.htm)>. The Nationwide Programmatic Agreement requires use of Secretary-qualified professionals for identification and evaluation of historic properties within the APE for direct effects, and for assessment of effects. The Nationwide Programmatic Agreement encourages, but does not require, use of Secretary-qualified professionals to identify historic properties within the APE for indirect effects. See Nationwide Programmatic Agreement, §§ VI.D.1.d, VI.D.1.e, VI.D.2.b, VI.E.5.

#### Additional Staff

**Items 35 through 41** Check Yes or No in Item 35 if there are other staff involved who meet the Professional Qualification Standards of the Secretary Interior. If "Yes" is checked, enter the name of the additional staff and select the appropriate area(s) of professional qualification. Items 37, 39 & 40 are optional. This section may be copied to include other additional staff.

**NOTE:** The Professional Qualification Standards are available on the cultural resources webpage of the National Park Service, Department of the Interior: <[http://www.cr.nps.gov/local-law/arch\\_stnds\\_9.htm](http://www.cr.nps.gov/local-law/arch_stnds_9.htm)>. The Nationwide Programmatic Agreement requires use of Secretary-qualified professionals for identification and evaluation of historic properties within the APE for direct effects, and for assessment of effects. The Nationwide Programmatic Agreement encourages, but does not require, use of Secretary-qualified professionals to identify historic properties within the APE for indirect effects. See Nationwide Programmatic Agreement, §§ VI.D.1.d, VI.D.1.e, VI.D.2.b, VI.E.5.

### Site Information

#### TCNS/Site Information

**Items 1 through 7** Enter the TCNS notification number in Item (optional). Enter the site name, address, nearest city, state, zip code and county/borough/parish in Items 2 through 7 respectively. Item 7 must be completed with the County/Borough/Parish or equivalent entity in which the tower is located unless any of the following pertain to the Fixed Location:

- The City entered in Item 4 is an Independent City that is not affiliated with a County/Borough/Parish (e.g., Baltimore, MD)
- The State code entered in Item 5 does not have Counties/Boroughs/Parishes, enter the equivalent entity (e.g., Puerto Rico, Virgin Islands)
- The State code entered in Item 5 is GM, Gulf of Mexico

**NOTE:** If the nearest City, County/Borough/Parish or equivalent entity and State are located in a bordering County/Borough/Parish or



equivalent entity and/or State, enter a complete description of the location in Item 3 as shown in the example. Complete Item 4 if a City, Town or Village within the tower's County/Borough/Parish or equivalent entity is nearby, and complete Items 5, 6 and 7 with the State, Zip Code and County/Borough/Parish or equivalent entity in which the coordinates are actually located.

Example: 3) (Site Address) Summit Mtn near Palo Verde, Imperial County, CA  
4) (City) Palo Verde  
5) (State) AZ  
7) (County/Borough/Parish) La Paz

Item 8 Enter the nearest crossroads to the tower site.

Item 9 Enter the latitude using the format DD-MM-SS.S, where the degrees (DD) term can have a value in the range of 0 to 72, minutes (MM) can range from 0 to 59, and seconds (SS.S) can range from 0 to 59.9. The seconds should be rounded to the nearest tenth of a second (in which case, use the format DD-MM-SS.S). Specify the direction as either N for North or S for South.

Item 10 Enter the longitude using the format DDD-MM-SS, where the degrees (DDD) term can have a value in the range of 64 to 180, minutes (MM) can range from 0 to 59, and seconds (SS.S) can range from 0 to 59.9. The seconds should be rounded to the nearest tenth of a second (in which case, use the format DDD-MM-SS.S). Specify the direction as either E for East or W for West.

**NOTE:** All coordinates must be referenced to the North American Datum of 1983 (NAD83). This information can be determined in many ways, including using a GPS receiver, or a 7.5-minute topographical quadrangle map of the area, or you may consult the city or county/borough/parish surveyor in your area. Topographical maps may be purchased from the U.S. Geological Survey, Washington, DC 20242 or from its office in Denver, Colorado 80225.

### **Site Information Attachments**

You are required to provide photographs and maps as part of this filing. Additional site information can be provided in an optional attachment.

#### **Photograph Requirements:**

Except in cases where no Historic Properties were identified within the Areas of Potential Effects, submit photographs as described below. Photographs should be in color, marked so as to identify the project, keyed to the relevant map or text, and dated; the focal length of the lens and the height of the camera should be noted. The source of any photograph included but not taken by the Applicant or its consultant (including copies of historic images) should be identified on the photograph.

- a. Photographs taken from the collocation site should show views from the proposed location in all directions. The direction (e.g., north, south, etc.) should be indicated on each photograph, and, as a group, the photographs should present a complete (360 degree) view of the area around the communications tower or non-tower structure.
- b. Photographs of all listed and eligible properties within the Areas of Potential Effects.
- c. If any listed or eligible properties are visible from the proposed collocation site, photographs looking at the site from each historic property. The approximate distance in feet (meters) between the site and the historic property should be included. If any listed or eligible properties are within the APE, photos looking at each historic property should be included.

Include aerial photos of the APE for visual effects, if available. There are a variety of publicly available websites that provide aerial photographs.

#### **Map Requirements:**

Include one or more 7.5-minute quad USGS topographical maps that:

- a. Identify the Areas of Potential Effects for both Direct and Visual Effects. If a map is copied from the original, include a key with name of quad and date.
- b. Show the location of the proposed collocation site and any new access roads or other easements including excavations.
- c. Show the locations of each property listed.
- d. Include keys for any symbols, colors, or other identifiers.
- e. Submit color maps whenever possible.

#### **Additional Site Information Recommendations:**

Describe any additional structures, access roads, utility lines, fences, easements, or other construction planned for the site in conjunction with the proposed collocation and related facilities. Use this attachment to provide additional details needed to provide a full and accurate description of any structural alterations, additions, or other construction activities that will take place to complete the collocation.

### **Collocation Information**

Item 11 Select the appropriate structure that the antenna will be collocated. If checking Communications Tower, select one of the options provided. If checking the Non-tower Structure, provide a description of the structure.

Item 12 Enter the tower height above ground (including top-mounted attachments such as lightning rods). Indicate whether you provided the height in feet or meters.

Item 13 Enter the description of antennas to be collocated (e.g. number, type, shape, dimensions, and color).

Item 14 Check Yes or No if the antennas will be placed at multiple levels on the structure. If "Yes", describe the placement. If "No", specify the height above ground and check either feet or meters.

Item 15 Enter the year of structure completion (YYYY). Check block if your year provided is approximate.



Item 16 Check Yes or No if the communications tower or non-tower structure has been the subject of SHPO/THPO review pursuant to Section 106 of the National Historic Preservation Act. If "Yes", provide the company that made the submission, the date submitted (MM/DD/YYYY) and the SHPO/THPO reference number.

Item 17 Check Yes or No if the communications tower or non-tower structure is eligible for listing on the National Register.

#### **Collocation Status**

##### **Current Collocation Status**

Item 18 Select the appropriate category of the status of the project. When selecting "Construction and/or installation has commenced, but is not completed", enter the date the construction and/or installation commenced. When selecting "Construction and/or installation has been completed", enter the date the construction and/or installation commenced and the date the construction and/or installation was completed.

**NOTE:** Failure to submit this form and complete the review process under Section 106 of the NHPA prior to beginning construction or other installation activities may violate Section 110(k) of the NHPA and the Commission's rules. See Section X of the Nationwide Programmatic Agreement.

#### **Determination of Effect**

##### **Direct Effects**

Item 19 Select the appropriate direct effect. Choose only one option.

**NOTE:** Pursuant to Section VI.D.2.a. of the Nationwide Programmatic Agreement, Applicants shall make a reasonable and good faith effort to identify above ground and archeological historic properties, including buildings, structures, and historic districts, that lie within the APE for direct effects. Such reasonable and good faith efforts may include a field survey where appropriate.

**ADDITIONAL NOTE:** Under Section VI.D.2.d. of the Nationwide Programmatic Agreement, an archeological field survey is required if an Indian tribe or NHO provides evidence that supports a high probability of the presence of intact archeological Historic Properties within the APE for direct effects.

##### **Visual Effects**

Item 20 Select the appropriate visual effect. Choose only one option.

**NOTE:** Section VI.D.1.a. of the Nationwide Programmatic Agreement requires the Applicant to review publicly available records to identify historic properties within the APE for visual effects: i) properties listed on the National Register; ii) properties formally determined eligible for listing by the Keeper of the National Register; iii) properties that the SHPO/THPO certifies are in the process of being nominated to the National Register; iv) properties previously determined eligible as part of a consensus determination of eligibility between the SHPO/THPO and a Federal Agency or local government representing the Department of Housing and Urban Development (HUD); and, v) properties listed in the SHPO/THPO Inventory that the SHPO/THPO has previously evaluated and found to meet the National Register criteria, and that are identified accordingly in the SHPO/THPO Inventory. Section VI.D.1.a also requires the Applicant to identify historic properties that have religious or cultural significance to Tribes and Native Hawaiian Organizations.

#### **Determination of Effect Attachments**

You are required to provide two attachments regarding the Determination of Effect: Areas of Potential Effect and Mitigation of Effect (if applicable).

##### **Areas of Potential Effect Guidelines:**

- a. Describe the APE for direct effects and explain how this APE was determined.
- b. Describe the APE for visual effects and explain how this APE was determined.

##### **Mitigation of Effect Guidelines:**

In the case where an Adverse Visual Effect or Adverse Direct Effect has been determined you must provide the following:

- a. Copies of any correspondence and summaries of any oral communications with the SHPO/THPO and any consulting parties. Describe any alternatives that have been considered that might avoid, minimize, or mitigate any adverse effects. Explain the Applicant's conclusion regarding the feasibility of each alternative.

#### **Tribal/NHO Involvement**

**(NOTE: This page may be copied for additional Tribes/NHOs contacted)**

Item 1 Check Yes or No if Indian Tribes or Native Hawaiian Organizations (NHOs) have been identified that may attach religious and cultural significance to historic properties which might be affected by the undertaking within the APEs for direct and visual effects.

Items 2a & 2b Enter the TCNS Notification Number and the number of Tribes/NHOs contacted electronically or through an alternate system.

Item 3 If available, enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

Item 4 Enter the Tribe/NHO name.

Items 5 through 9 Enter the name and title of the individual to contact in Items 5 through 9.

Items 10 & 11 Enter the date contacted (MM/DD/YYYY) and date replied (MM/DD/YYYY) and select the option that corresponds to the contact method and the response.



### **Tribal/NHO Involvement Attachments**

You may be required to provide a Tribal/NHO Involvement attachment(s) (if applicable).

#### **Tribal/NHO Involvement Attachment Guidelines**

At an early stage in the planning process, the Nationwide Programmatic Agreement requires the Applicant to gather information from appropriate Indian Tribes or Native Hawaiian Organizations ("NHOs") to assist in the identification of historic properties of religious and cultural significance to them. Describe measures taken to identify Indian Tribes and NHOs that may attach religious and cultural significance to historic properties that may be affected by the collocation within the Areas of Potential Effects ("APEs") for direct and visual effects. If such Indian Tribes or NHOs were identified, list them and provide a summary of contacts by the FCC, the Applicant, or the Applicant's representative. Provide copies of relevant documents, including correspondence. If no such Indian tribes or NHOs were identified, please explain.

### **Other Tribes/NHOs Contacted**

(NOTE: This page may be copied for additional Tribal/NHOs)

### **Tribe/NHO Information/Contact Information**

**Item 1** If available, enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

**Items 2-15** Enter the name of the Tribe/NHO in Item 4. Enter the individual to contact in Items 3 through 6 as well as the title in Item 7. You may enter a post office box number in Item 8 or a street address in Item 9, or enter information for both items. Enter the city, state, and zip code in Items 10, 11, and 12. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 13. Enter the fax number (including area code) and e-mail address, if desired and available, in Items 14 and 15.

**Item 16** Select the preferred means of communication.

### **Dates & Response**

**Items 17 & 18** Enter the date contacted (MM/DD/YYYY) and date replied (MM/DD/YYYY) and select the option that corresponds to the contact method and the response.

### **Historic Properties**

(NOTE: This page may be copied for additional historic properties)

#### **Properties Identified**

**Item 1** Check Yes or No if any historic properties have been identified within the APEs for direct and visual effect.

**NOTE:** Section II.A.9. of the Nationwide Programmatic Agreement defines a "historic property" as: "Any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian Organization that meet the National Register criteria."

Please note that historic units of the National Parks system are listed on the National Register, and that discontinuous units of national parks may be in different jurisdictions.

**Item 2** Check Yes or No if the identification process located archaeological materials that would be directly affected, or sites that are of cultural or religious significance to Tribes/NHOs.

**Item 3** Check Yes or No if there are more than 10 historic properties with the APEs for direct and visual effect. If "Yes", you are required to attach a Cultural Resources Report instead of completing items 4 through 10 of this section.

#### **Historic Property**

**Items 4 & 5** Enter the property name and the SHPO site number, if any.

#### **Property Address**

**Items 6 through 10** Enter a street address in Item 6. Enter the city, state, zip code and county/borough/parish in Items 7, 8, 9 and 10 respectively. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations.

#### **Status & Eligibility**

**Item 11** Check Yes or No if the property is listed on the National Register and provide the source.

**Item 12** Check Yes or No if the property is eligible for listing on the National Register and provide the source.

**Item 13** Check Yes or No if the property is a National Historical Landmark.

#### **Direct Effects**

**Item 14** Select the appropriate direct effect. Choose only one option.

**NOTE:** Pursuant to Section VI.D.2.a. of the Nationwide Programmatic Agreement, Applicants shall make a reasonable and good faith effort to identify above ground and archeological historic properties, including buildings, structures, and historic districts, that lie within the APE for direct effects. Such reasonable and good faith efforts may include a field survey where appropriate.



**ADDITIONAL NOTE:** Under Section VI.D.2.d. of the Nationwide Programmatic Agreement, an archeological field survey is required if an Indian Tribe or NHO provides evidence that supports a high probability of the presence of intact archeological Historic Properties within the APE for direct effects.

### **Visual Effects**

**Item 15** Select the appropriate visual effect. Choose only one option.

**NOTE:** Section VI.D.1.a. of the Nationwide Programmatic Agreement requires the Applicant to review publicly available records to identify within the APE for visual effects: i) properties listed on the National Register; ii) properties formally determined eligible for listing by the Keeper of the National Register; iii) properties that the SHPO/THPO certifies are in the process of being nominated to the National Register; iv) properties previously determined eligible as part of a consensus determination of eligibility between the SHPO/THPO and a Federal Agency or local government representing the Department of Housing and Urban Development (HUD); and, v) properties listed in the SHPO/THPO Inventory that the SHPO/THPO has previously evaluated and found to meet the National Register criteria, and that are identified accordingly in the SHPO/THPO Inventory. . Section VI.D.1.a also requires the Applicant to identify historic properties that have religious or cultural significance to Tribes and Native Hawaiian Organizations.

### **Historic Properties Attachments**

#### **Historic Properties Identified for Direct Effects Guidelines**

- a. List all properties identified within the APE for direct effects.
- b. Provide the name and address (including U.S. Postal Service ZIP Code) of each property in the APE for direct effects, not listed in part "a", that the Applicant considers to be eligible for listing in the National Register as a result of the Applicant's research. For each such property, describe how it satisfies the criteria of eligibility (36 C.F.R. Part 63). For each property that was specifically considered and determined not to be eligible, describe why it does not satisfy the criteria of eligibility.
- c. Describe the techniques and the methodology, including any field survey, used to identify historic properties within the APE for direct effects. If no archeological field survey was performed, provide a report substantiating that: i) the depth of previous disturbance exceeds the proposed construction depth (excluding footings and other anchoring mechanisms) by at least 2 feet; or, ii) geomorphological evidence indicates that cultural resource-bearing soils do not occur within the project area or may occur but at depths that exceed 2 feet below the proposed construction depth.

#### **Historic Properties Identified for Visual Effects Guidelines**

- a. Provide the name and address (including U.S. Postal Service ZIP Code) of each property in the APE for visual effects that is listed in the National Register, has been formally determined eligible for listing by the Keeper of the National Register, or is identified as considered eligible for listing in the records of the SHPO/THPO, pursuant to Section VI.D.1.a. of the Nationwide Agreement.<sup>a</sup>
- b. Provide the name and address (including U.S. Postal Service ZIP Code) of each Historic Property in the APE for visual effects, not listed in part "a", identified through the comments of Indian Tribes, NHOs, local governments, or members of the public. Identify each individual or group whose comments led to the inclusion of a Historic Property in this attachment. For each such property, describe how it satisfies the criteria of eligibility (36 C.F.R. Part 63).
- c. For any properties listed in part "a", that the Applicant considers no longer eligible for inclusion in the National Register, explain the basis for this recommendation.

### **Local Government Involvement**

(NOTE: This page may be copied for additional local government agencies)

### **Local Government Agency/Contact Information**

**Item 1** If available, enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

**Items 2-15** Enter the name of the local government agency in Item 2. Enter the name and title of the individual to contact in Items 3 through 7. You may enter a post office box number in Item 8 or a street address in Item 9, or enter information for both items. Enter the city, state, and zip code in Items 10, 11, and 12. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 13. Enter the fax number (including area code) and e-mail address, if desired and available, in items 14 and 15.

**Item 16** Select the preferred means of communication.

### **Dates & Response**

**Items 17 & 18** Enter the date contacted (MM/DD/YYYY) and date replied (MM/DD/YYYY) and select the option that corresponds to the contact method and the response.

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<sup>3</sup> Pursuant to Section VI.D.2.a. of the Nationwide Programmatic Agreement, Applicants shall make a reasonable and good faith effort to identify above ground and archeological historic properties, including buildings, structures, and historic districts, that lie within the APE for direct effects. Such reasonable and good faith efforts may include a field survey where appropriate.

<sup>2</sup> Section VI.D.1.a. of the Nationwide Programmatic Agreement requires the Applicant to review publicly available records to identify within the APE for visual effects: i) properties listed in the National Register; ii) properties formally determined eligible for listing by the Keeper of the National Register; iii) properties that the SHPO/THPO certifies are in the process of being nominated to the National Register; iv) properties previously determined eligible as part of a consensus determination of eligibility between the SHPO/THPO and a Federal Agency or local government representing the Department of Housing and Urban Development (HUD); and, v) properties listed in the SHPO/THPO Inventory that the SHPO/THPO has previously evaluated and found to meet the National Register criteria, and that are identified accordingly in the SHPO/THPO Inventory.



**Additional Information**

Item 19 Enter any information on local government's role or interest. (Optional)

**Local Government Involvement Attachment(s)**

You may be required to provide a Local Government attachment(s).

**Local Government Attachment Guidelines**

- a. If any local government has been contacted and invited to become a consulting party pursuant to Section V.A. of the Nationwide Programmatic Agreement, list the local government agencies contacted. Provide a summary of contacts and copies of any relevant documents (e.g., correspondence or notices).
- b. If a local government agency will be contacted but has not been to date, explain why and when such contact will take place.

**Other Consulting Parties**

(NOTE: This page may be copied for additional consulting parties)

**Other Consulting Parties Contacted**

Item 1 Check Yes or No if any other agency has been contacted and invited to become a consulting party. If "Yes", complete items 2 through 20.

**Consulting Party/Contact Information**

Item 2 If available, enter the ten-digit FRN assigned by the Commission Registration System (CORES). The FRN is a unique entity identifier for everyone doing business with the Commission. The FRN can be obtained electronically through the FCC webpage at <http://wireless.fcc.gov/uls> (Select FCC Registration Number (FRN) Commission Registration System (CORES)) or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-3676, or from the FCC's Fax Information System by dialing (202) 418-0177.

Items 3-16 Enter the name of the consulting party in Item 3. Enter the name and title of the individual to contact in Items 4 through 8. Items 5, 7 and 8 are optional. You may enter a post office box number in Item 9 or a street address in Item 10, or enter information for both items. Enter the city, state, and zip code in Items 11, 12, and 13. Refer to Appendix I, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 14. Enter the fax number (including area code) and e-mail address, if desired and available, in items 15 and 16.

Item 17 Select the preferred means of communication.

**Dates & Response**

Items 18 & 19 Enter the date contacted (MM/DD/YYYY) and date replied (MM/DD/YYYY) and select the option that corresponds to the contact method and the response.

**Additional Information**

Item 20 Enter any information on consulting parties' role or interest. (Optional)

**Consulting Parties Attachment**

You are required to provide a Public Notice attachment.

**Public Notice Guidelines:**

Provide copies of any relevant correspondence or other documentation used to invite public involvement in this project (e.g., legal notices, letters, or public meetings).

**Designation of SHPO/THPO**

Item 1 Based on the site of the tower/collation, designate the Lead State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) to review this filing. A list of the SHPOs can be found at: <http://www.ncshpo.org/>.

Item 2 If the SHPO/THPO requires sending this filing to a regional office, enter the appropriate person/office as an alternate SHPO/THPO. You may also designate other SHPOs/THPOs as additional recipients. If either or both of the APEs include other jurisdictions. In addition, use this item to list the National and State/Provincial Historic Preservation Agencies when either of the APEs includes another country.

**Designation of SHPO/THPO Attachments**

You may be required to provide State Specific Forms as additional attachments.

**SHPO/THPO Specific Forms:**

The lead SHPO/THPO reviewing this filing may require additional forms specific to its Section 106 review requirements.

**Certification**

By signing this form, the applicant certifies that the statements listed in this section are true, complete, correct, and made in good faith.

This section must be completed. To be acceptable for filing, applications must be signed in accordance with Part 1 of the FCC rules. The signor must be a person authorized to sign the application. Paper originals of applications must bear an original signature. On paper originals, neither rubber-stamped nor photocopied signatures are acceptable. For filers filing electronically via ULS, the electronic signature shall consist of the name of the person authorized to sign typed on the application as a signature.

## Appendix I

### STATE TABLE

#### Abbreviations for States, Jurisdictions, and Areas

AL	Alabama	ND	North Dakota
AK	Alaska	OH	Ohio
AZ	Arizona	OK	Oklahoma
AR	Arkansas	OR	Oregon
CA	California	PA	Pennsylvania
CO	Colorado	RI	Rhode Island
CT	Connecticut	SC	South Carolina
DE	Delaware	SD	South Dakota
DC	District of Columbia	TN	Tennessee
FL	Florida	TX	Texas
GA	Georgia	UT	Utah
GM	Gulf of Mexico	VT	Vermont
HI	Hawaii	VA	Virginia
ID	Idaho	WA	Washington
IL	Illinois	WV	West Virginia
IN	Indiana	WI	Wisconsin
IA	Iowa	WY	Wyoming
KS	Kansas		
KY	Kentucky	AS	American Samoa
LA	Louisiana	CN	Canada
ME	Maine	GU	Guam
MD	Maryland	MP	Northern Mariana Islands
MA	Massachusetts	MX	Mexico
MI	Michigan	PR	Puerto Rico
MN	Minnesota	UM	U.S. Territories: (Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, Palmyra Atoll and Wake Island)
MS	Mississippi		
MO	Missouri	VI	Virgin Islands
MT	Montana		
NE	Nebraska	AA	Armed Forces-Americas (excluding Canada)
NV	Nevada	AE	Armed Forces-(Europe, Middle East, Africa, Canada)
NH	New Hampshire	AP	Armed Forces-Pacific
NJ	New Jersey		
NM	New Mexico		
NY	New York		
NC	North Carolina		

## General Information

1) (Select only one) (      ) NE – New                      UA – Update of Application                      WD – Withdrawal of Application	
2) If this application is for an Update or Withdrawal, enter the file number of the pending application currently on file.	File Number:

## Applicant Information

3) FCC Registration Number (FRN):
4) Name:

## Contact Name

5) First Name:	6) MI:	7) Last Name:	8) Suffix:
9) Title:			

## Contact Information

10) P.O. Box:	And /Or	11) Street Address:	
12) City:		13) State:	14) Zip Code:
15) Telephone Number: (      )		16) Fax Number: (      )	
17) E-mail Address:			

## Consultant Information

18) FCC Registration Number (FRN):
19) Name:

## Principal Investigator

20) First Name:	21) MI:	22) Last Name:	23) Suffix:
24) Title:			

## Principal Investigator Contact Information

25) P.O. Box:	And /Or	26) Street Address:	
27) City:		28) State:	29) Zip Code:
30) Telephone Number: (      )		31) Fax Number: (      )	
32) E-mail Address:			



**Professional Qualification**

33) Does the Principal Investigator satisfy the Secretary of the Interior's Professional Qualification Standards?	( <input type="checkbox"/> ) <u>Yes</u> ( <input type="checkbox"/> ) <u>No</u>
34) Areas of Professional Qualification: ( <input type="checkbox"/> ) Archaeologist ( <input type="checkbox"/> ) Architectural Historian ( <input type="checkbox"/> ) Historian ( <input type="checkbox"/> ) Architect ( <input type="checkbox"/> ) Other (Specify) _____	

**Additional Staff**

35) Are there other staff involved who meet the Professional Qualification Standards of the Secretary of the Interior?	( <input type="checkbox"/> ) <u>Yes</u> ( <input type="checkbox"/> ) <u>No</u>
--	--

If "YES", complete the following:

36) First Name:	37) MI:	38) Last Name:	39) Suffix:
40) Title:			
41) Areas of Professional Qualification: ( <input type="checkbox"/> ) Archaeologist ( <input type="checkbox"/> ) Architectural Historian ( <input type="checkbox"/> ) Historian ( <input type="checkbox"/> ) Architect ( <input type="checkbox"/> ) Other (Specify) _____			

**This page may be copied to include additional staff.****Consultant Information Attachments required – See instructions for details.**

## Site Information

### Tower Construction Notification System

1) TCNS Notification Number: \_\_\_\_\_

### Site Information

2) Site Name: \_\_\_\_\_

3) Site Address: \_\_\_\_\_

4) City: \_\_\_\_\_

5) State: \_\_\_\_\_

6) Zip Code: \_\_\_\_\_

7) County/Borough/Parish: \_\_\_\_\_

8) Nearest Crossroads: \_\_\_\_\_

9) NAD 83 Latitude (DD-MM-SS.S): \_\_\_\_\_

( ) N or ( ) S

10) NAD 83 Longitude (DD-MM-SS.S): \_\_\_\_\_

( ) E or ( ) W

### Collocation Information

11) Antennas will be located on (Select One):

( ) Communications Tower (Select One): ( ) Guyed Lattice Tower ( ) Self-supporting Lattice ( ) Monopole

( ) Other (Describe): \_\_\_\_\_

( ) Non-Tower Structure (Describe Structure): \_\_\_\_\_

12) Tower height above ground level (including top-mounted attachments such as lightning rods): \_\_\_\_\_ ( ) Feet ( ) Meters

13) Description of Antennas to be collocated (e.g. number, type, shape, dimensions, color):

\_\_\_\_\_  
\_\_\_\_\_

14) Will the Antennas be placed at multiple levels on the structure?

( ) Yes ( ) No

If "Yes", describe placement: \_\_\_\_\_

If "No", specify the height of collocation above ground: \_\_\_\_\_ ( ) Feet ( ) Meters

15) Structure Completion Year: \_\_\_\_\_ (YYYY)

( ) Check here if your year provided is approximate.

16) Has the Communications Tower or Non-Tower Structure been the subject of SHPO/THPO review?

( ) Yes ( ) No

If "Yes", specify the following:

Company that made the submission: \_\_\_\_\_

Date submitted: \_\_\_\_/\_\_\_\_/\_\_\_\_ SHPO/THPO Reference Number: \_\_\_\_\_

17) Is the Communications Tower or Non-Tower Structure eligible for listing on the National Register?

( ) Yes ( ) No

**Site Information Attachments required – See instructions for details.**

**Collocation Status**

18) Current Collocation Status (Select One):

- ☐ Construction and/or installation has not yet commenced
- ☐ Construction and/or installation has commenced, but is not completed

Construction and/or installation commenced on: \_\_\_\_/\_\_\_\_/\_\_\_\_

- ☐ Construction has been completed

Construction and/or installation commenced on: \_\_\_\_/\_\_\_\_/\_\_\_\_ Construction and/or installation completed on: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Determination of Effect**

19) Direct Effects (Select One):

- ☐ No Historic Properties in Area of Potential Effects (APE)
- ☐ No Effect on Historic Properties in APE
- ☐ No Adverse Effect on Historic Properties in APE
- ☐ Adverse Effect on one or more Historic Properties in APE

20) Visual Effects (Select One):

- ☐ No Historic Properties in Area of Potential Effects (APE)
- ☐ No Effect on Historic Properties in APE
- ☐ No Adverse Effect on Historic Properties in APE
- ☐ Adverse Effect on one or more Historic Properties in APE

**Determination of Effect Attachments required – See instructions for details.**

### Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(    ) <u>Yes</u> (    ) <u>No</u>
2a) Tribes/NHOs contacted through TCNS Notification Number: _____ Number of Tribes/NHOs: _____	
2b) Tribes/NHOs contacted through an alternate system: _____ Number of Tribes/NHOs: _____	

#### Tribal/NHO Contacted Through TCNS

3) Tribe/NHO FRN: _____
4) Tribe/NHO Name: _____

#### Contact Name

5) First Name: _____	6) MI: _____	7) Last Name: _____	8) Suffix: _____
9) Title: _____			

#### Dates & Response

10) Date Contacted ____/____/____	11) Date Replied ____/____/____
<input type="checkbox"/> No Reply <input type="checkbox"/> Replied/No Interest <input type="checkbox"/> Replied/Have Interest <input type="checkbox"/> Replied/Other _____	

**This page may be copied to include additional Tribes/NHOs contacted.**  
**Tribal/NHO Involvement Attachments may be required – See instructions for details.**

### Other Tribes/NHOs Contacted

#### Tribe/NHO Information

1) FCC Registration Number (FRN):
2) Name:

#### Contact Name

3) First Name:	4) MI:	5) Last Name:	6) Suffix:
7) Title:			

#### Contact Information

8) P.O. Box:	And /Or	9) Street Address:	
10) City:		11) State:	12) Zip Code:
13) Telephone Number: (    )		14) Fax Number: (    )	
15) E-mail Address:			
16) Preferred means of communication:  <input type="checkbox"/> E-mail <input type="checkbox"/> Letter <input type="checkbox"/> Both			

#### Dates & Response

17) Date Contacted ____/____/____  <input type="checkbox"/> No Reply <input type="checkbox"/> Replied/No Interest <input type="checkbox"/> Replied/Have Interest <input type="checkbox"/> Replied/Other _____	18) Date Replied ____/____/____
--	---------------------------------

This page may be copied to include additional Tribes/NHOs.

## Historic Properties

### Properties Identified

1) Have any historic properties been identified within the APEs for direct and visual effect?	(    ) <u>Yes</u> (    ) <u>No</u>
2) Has the identification process located archaeological materials that would be directly affected, or sites that are of cultural or religious significance to Tribes/NHOs?	(    ) <u>Yes</u> (    ) <u>No</u>
3) Are there more than 10 historic properties within the APEs for direct and visual effect? If "Yes", you are required to attach a Cultural Resources Report in lieu of adding the Historic Property below.	(    ) <u>Yes</u> (    ) <u>No</u>

### Historic Property

4) Property Name:
5) SHPO Site Number:

### Property Address

6) Street Address:		
7) City:	8) State:	9) Zip Code:
10) County/Borough/Parish:		

### Status & Eligibility

11) Is this property listed on the National Register?  Source: _____	(    ) <u>Yes</u> (    ) <u>No</u>
12) Is this property eligible for listing on the National Register?  Source: _____	(    ) <u>Yes</u> (    ) <u>No</u>
13) Is this property a National Historic Landmark?	(    ) <u>Yes</u> (    ) <u>No</u>

<p>14) Direct Effects (Select One):</p> <p>(    ) No Effect on this Historic Property in APE</p> <p>(    ) No Adverse Effect on this Historic Property in APE</p> <p>(    ) Adverse Effect on this Historic Property in APE</p>
<p>15) Visual Effects (Select One):</p> <p>(    ) No Effect on this Historic Property in APE</p> <p>(    ) No Adverse Effect on this Historic Property in APE</p> <p>(    ) Adverse Effect on this Historic Property in APE</p>

**This page may be copied to include additional Historic Properties.  
Historic Property Attachments required – See instructions for details.**



## Local Government Involvement

### Local Government Agency

1) FCC Registration Number (FRN):

2) Name:

### Contact Name

3) First Name:

4) MI:

5) Last Name:

6) Suffix:

7) Title:

### Contact Information

8) P.O. Box:

And  
/Or

9) Street Address:

10) City:

11) State:

12) Zip Code:

13) Telephone Number: (     )

14) Fax Number: (     )

15) E-mail Address:

16) Preferred means of communication:

(     ) E-mail

(     ) Letter

(     ) Both

### Dates & Response

17) Date Contacted \_\_\_\_/\_\_\_\_/\_\_\_\_

18) Date Replied \_\_\_\_/\_\_\_\_/\_\_\_\_

(     ) No Reply

(     ) Replied/No Interest

(     ) Replied/Have Interest

(     ) Replied/Other \_\_\_\_\_

### Additional Information

19) Information on local government's role or interest (optional):

This page may be copied to include additional local government agencies.  
Local Government Attachments required – See instructions for details.

## Other Consulting Parties

### Other Consulting Parties Contacted

1) Has any other agency been contacted and invited to become a consulting party?	(    ) <u>Yes</u> (    ) <u>No</u>
--	------------------------------------

### Consulting Party

2) FCC Registration Number (FRN):
3) Name:

### Contact Name

4) First Name:	5) MI:	6) Last Name:	7) Suffix:
8) Title:			

### Contact Information

9) P.O. Box:	And /Or	10) Street Address:
11) City:	12) State:	13) Zip Code:
14) Telephone Number: (    )		15) Fax Number: (    )
16) E-mail Address:		
17) Preferred means of communication:		
<input type="checkbox"/> E-mail <input type="checkbox"/> Letter <input type="checkbox"/> Both		

### Dates & Response

18) Date Contacted ____/____/____	19) Date Replied ____/____/____
<input type="checkbox"/> No Reply <input type="checkbox"/> Replied/No Interest <input type="checkbox"/> Replied/Have Interest <input type="checkbox"/> Replied/Other _____	

### Additional Information

20) Information on other consulting parties' role or interest (optional):
---

**This page may be copied to include additional consulting parties.  
Consulting Parties Attachments required – See instructions for details.**



### Designation of SHPO/THPO

1) Designate the Lead State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) based on the location of the tower/collation.

#### SHPO/THPO

Name: \_\_\_\_\_

2) You may also designate up to three additional SHPOs/THPOs if the APEs include multiple states. If the APEs include other countries, enter the name of the National Historic Preservation Agency and any state and provincial Historic Preservation Agency

SHPO/THPO Name: \_\_\_\_\_

SHPO/THPO Name: \_\_\_\_\_

SHPO/THPO Name: \_\_\_\_\_

**Designation of SHPO/THPO Attachments may be required – See instructions for details.**

### Certification

I certify that all representations on this FCC Form 621 Submission Packet and the accompanying attachments are true, correct, and complete.

#### Party Authorized to Sign

First Name:	MI:	Last Name:	Suffix:
Signature:			Date: ____/____/____

**FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.**

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).**

## **APPENDIX C**

### **Nationwide Programmatic Agreement**

**NATIONWIDE PROGRAMMATIC AGREEMENT FOR REVIEW OF EFFECTS ON  
HISTORIC PROPERTIES FOR CERTAIN UNDERTAKINGS APPROVED BY THE  
FEDERAL COMMUNICATIONS COMMISSION**

September 2004

**INTRODUCTION**

WHEREAS, Section 106 of the National Historic Preservation Act of 1966, as amended (“NHPA”) (codified at 16 U.S.C. § 470f), requires federal agencies to take into account the effects of certain of their Undertakings on Historic Properties (see Section II, below), included in or eligible for inclusion in the National Register of Historic Places (“National Register”), and to afford the Advisory Council on Historic Preservation (“Council”) a reasonable opportunity to comment with regard to such Undertakings; and

WHEREAS, under the authority granted by Congress in the Communications Act of 1934, as amended (47 U.S.C. § 151 et seq.), the Federal Communications Commission (“Commission”) establishes rules and procedures for the licensing of non-federal government communications services, and the registration of certain antenna structures in the United States and its Possessions and Territories; and

WHEREAS, Congress and the Commission have deregulated or streamlined the application process regarding the construction of individual Facilities in many of the Commission’s licensed services; and

WHEREAS, under the framework established in the Commission’s environmental rules, 47 C.F.R. §§ 1.1301-1.1319, Commission licensees and applicants for authorizations and antenna structure registrations are required to prepare, and the Commission is required to independently review and approve, a pre-construction Environmental Assessment (“EA”) in cases where a proposed tower or antenna may significantly affect the environment, including situations where a proposed tower or antenna may affect Historic Properties that are either listed in or eligible for listing in the National Register, including properties of religious and cultural importance to an Indian tribe or Native Hawaiian organization (“NHO”) that meet the National Register criteria; and

WHEREAS, the Council has adopted rules implementing Section 106 of the NHPA (codified at 36 C.F.R. Part 800) and setting forth the process, called the “Section 106 process,” for complying with the NHPA; and

WHEREAS, pursuant to the Commission’s rules and the terms of this Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission (“Nationwide Agreement”), Applicants (see Section II.A.2) have been authorized, consistent with the terms of the memorandum from the Council to the Commission, titled “Delegation of Authority for the Section 106 Review of Telecommunications Projects,” dated September 21, 2000, to initiate, coordinate, and assist the Commission with compliance with many aspects of the Section 106 review process for their Facilities; and

WHEREAS, in August 2000, the Council established a Telecommunications Working Group (the “Working Group”) to provide a forum for the Commission, the Council, the National Conference of State Historic Preservation Officers (“Conference”), individual State Historic Preservation Officers (“SHPOs”), Tribal Historic Preservation Officers (“THPOs”), other tribal representatives, communications industry representatives, and other interested members of the public to discuss improved Section 106 compliance and to develop methods of streamlining the Section 106 review process; and

WHEREAS, Section 214 of the NHPA (16 U.S.C. § 470v) authorizes the Council to promulgate regulations implementing exclusions from Section 106 review, and Section 800.14(b) of the Council’s regulations (36 C.F.R § 800.14(b)) allows for programmatic agreements to streamline and tailor the Section 106 review process to particular federal programs, if they are consistent with the Council’s regulations; and

WHEREAS, the Commission, the Council, and the Conference executed on March 16, 2001, the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (the “Collocation Agreement”), in order to streamline review for the collocation of antennas on existing towers and other structures and thereby reduce the need for the construction of new towers (Attachment 1 to this Nationwide Agreement); and

WHEREAS, the Council, the Conference, and the Commission now agree it is desirable to further streamline and tailor the Section 106 review process for Facilities that are not excluded from Section 106 review under the Collocation Agreement while protecting Historic Properties that are either listed in or eligible for listing in the National Register; and

WHEREAS, the Working Group agrees that a nationwide programmatic agreement is a desirable and effective way to further streamline and tailor the Section 106 review process as it applies to Facilities; and

WHEREAS, this Nationwide Agreement will, upon its execution by the Council, the Conference, and the Commission, constitute a substitute for the Council’s rules with respect to certain Commission Undertakings; and

WHEREAS, the Commission sought public comment on a draft of this Nationwide Agreement through a Notice of Proposed Rulemaking released on June 9, 2003;

WHEREAS, the Commission has actively sought and received participation and comment from Indian tribes and NHOs regarding this Nationwide Agreement; and

WHEREAS, the Commission has consulted with federally recognized Indian tribes regarding this Nationwide Agreement (see Report and Order, FCC 04-222, at ¶ 31); and

WHEREAS, this Nationwide Agreement provides for appropriate public notification and participation in connection with the Section 106 process; and

WHEREAS, Section 101(d)(6) of the NHPA provides that federal agencies “shall consult with any Indian tribe or Native Hawaiian organization” that attaches religious and cultural significance to properties of traditional religious and cultural importance that may be determined to be eligible for inclusion in the National Register and that might be affected by a federal undertaking (16 U.S.C. § 470a(d)(6)); and

WHEREAS, the Commission has adopted a “Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes” dated June 23, 2000, pursuant to which the Commission: recognizes the unique legal relationship that exists between the federal government and Indian tribal governments, as reflected in the Constitution of the United States, treaties, federal statutes, Executive orders, and numerous court decisions; affirms the federal trust relationship with Indian tribes, and recognizes that this historic trust relationship requires the federal government to adhere to certain fiduciary standards in its dealings with Indian tribes; commits to working with Indian tribes on a government-to-government basis consistent with the principles of tribal self-governance; commits, in accordance with the federal government’s trust responsibility, and to the extent practicable, to consult with tribal governments prior to implementing any regulatory action or policy that will significantly or uniquely affect tribal governments, their land and resources; strives to develop working relationships with tribal governments, and will endeavor to identify innovative mechanisms to facilitate tribal consultations in the Commission’s regulatory processes; and endeavors to streamline its administrative process and procedures to remove undue burdens that its decisions and actions place on Indian tribes; and

WHEREAS, the Commission does not delegate under this Programmatic Agreement any portion of its responsibilities to Indian tribes and NHOs, including its obligation to consult under Section 101(d)(6) of the NHPA; and

WHEREAS, the terms of this Nationwide Agreement are consistent with and do not attempt to abrogate the rights of Indian tribes or NHOs to consult directly with the Commission regarding the construction of Facilities; and

WHEREAS, the execution and implementation of this Nationwide Agreement will not preclude Indian tribes or NHOs, SHPO/THPOs, local governments, or members of the public from filing complaints with the Commission or the Council regarding effects on Historic Properties from any Facility or any activity covered under the terms of the Nationwide Agreement; and

WHEREAS, Indian tribes and NHOs may request Council involvement in Section 106 cases that present issues of concern to Indian tribes or NHOs (see 36 C.F.R. Part 800, Appendix A, Section (c)(4)); and

WHEREAS, the Commission, after consulting with federally recognized Indian tribes, has developed an electronic Tower Construction Notification System through which Indian tribes and NHOs may voluntarily identify the geographic areas in which Historic Properties to which they attach religious and cultural significance may be located, Applicants may ascertain which participating Indian tribes and NHOs have identified such an interest in the geographic area in which they propose to construct Facilities, and Applicants may voluntarily provide electronic notification of proposed Facilities construction for the Commission to forward to participating Indian tribes, NHOs, and SHPOs/THPOs; and

WHEREAS, the Council, the Conference and the Commission recognize that Applicants' use of qualified professionals experienced with the NHPA and Section 106 can streamline the review process and minimize potential delays; and

WHEREAS, the Commission has created a position and hired a cultural resources professional to assist with the Section 106 process; and

WHEREAS, upon execution of this Nationwide Agreement, the Council may still provide advisory comments to the Commission regarding the coordination of Section 106 reviews; notify the Commission of concerns raised by consulting parties and the public regarding an Undertaking; and participate in the resolution of adverse effects for complex, controversial, or other non-routine projects;

NOW THEREFORE, in consideration of the above provisions and of the covenants and agreements contained herein, the Council, the Conference and the Commission (the "Parties") agree as follows:

#### I. APPLICABILITY AND SCOPE OF THIS NATIONWIDE AGREEMENT

- A. This Nationwide Agreement (1) excludes from Section 106 review certain Undertakings involving the construction and modification of Facilities, and (2) streamlines and tailors the Section 106 review process for other Undertakings involving the construction and modification of Facilities. An illustrative list of Commission activities in relation to which Undertakings covered by this Agreement may occur is provided as Attachment 2 to this Agreement.
- B. This Nationwide Agreement applies only to federal Undertakings as determined by the Commission ("Undertakings"). The Commission has sole authority to determine what activities undertaken by the Commission or its Applicants constitute Undertakings within the meaning of the NHPA. Nothing in this Agreement shall preclude the Commission from revisiting or affect the existing ability of any person to challenge any prior determination of what does or does not constitute an Undertaking. Maintenance and servicing of Towers, Antennas, and associated equipment are not deemed to be Undertakings subject to Section 106 review.

- C. This Agreement does not apply to Antenna Collocations that are exempt from Section 106 review under the Collocation Agreement (see Attachment 1). Pursuant to the terms of the Collocation Agreement, such Collocations shall not be subject to the Section 106 review process and shall not be submitted to the SHPO/THPO for review. This Agreement does apply to collocations that are not exempt from Section 106 review under the Collocation Agreement.
- D. This Agreement does not apply on “tribal lands” as defined under Section 800.16(x) of the Council’s regulations, 36 C.F.R. § 800.16(x) (“Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.”). This Nationwide Agreement, however, will apply on tribal lands should a tribe, pursuant to appropriate tribal procedures and upon reasonable notice to the Council, Commission, and appropriate SHPO/THPO, elect to adopt the provisions of this Nationwide Agreement. Where a tribe that has assumed SHPO functions pursuant to Section 101(d)(2) of the NHPA (16 U.S.C. § 470(d)(2)) has agreed to application of this Nationwide Agreement on tribal lands, the term SHPO/THPO denotes the Tribal Historic Preservation Officer with respect to review of proposed Undertakings on those tribal lands. Where a tribe that has not assumed SHPO functions has agreed to application of this Nationwide Agreement on tribal lands, the tribe may notify the Commission of the tribe’s intention to perform the duties of a SHPO/THPO, as defined in this Nationwide Agreement, for proposed Undertakings on its tribal lands, and in such instances the term SHPO/THPO denotes both the State Historic Preservation Officer and the tribe’s authorized representative. In all other instances, the term SHPO/THPO denotes the State Historic Preservation Officer.
- E. This Nationwide Agreement governs only review of Undertakings under Section 106 of the NHPA. Applicants completing the Section 106 review process under the terms of this Nationwide Agreement may not initiate construction without completing any environmental review that is otherwise required for effects other than historic preservation under the Commission’s rules (See 47 C.F.R. §§ 1.1301-1.1319). Completion of the Section 106 review process under this Nationwide Agreement satisfies an Applicant’s obligations under the Commission’s rules with respect to Historic Properties, except for Undertakings that have been determined to have an adverse effect on Historic Properties and that therefore require preparation and filing of an Environmental Assessment (See 47 C.F.R. § 1.1307(a)(4)).
- F. This Nationwide Agreement does not govern any Section 106 responsibilities that agencies other than the Commission may have with respect to those agencies’ federal Undertakings.



## II. DEFINITIONS

A. The following terms are used in this Nationwide Agreement as defined below:

1. **Antenna.** An apparatus designed for the purpose of emitting radio frequency (“RF”) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a Tower, structure, or building as part of the original installation of the antenna. For most services, an Antenna will be mounted on or in, and is distinct from, a supporting structure such as a Tower, structure or building. However, in the case of AM broadcast stations, the entire Tower or group of Towers constitutes the Antenna for that station. For purposes of this Nationwide Agreement, the term Antenna does not include unintentional radiators, mobile stations, or devices authorized under Part 15 of the Commission's rules.
2. **Applicant.** A Commission licensee, permittee, or registration holder, or an applicant or prospective applicant for a wireless or broadcast license, authorization or antenna structure registration, and the duly authorized agents, employees, and contractors of any such person or entity.
3. **Area of Potential Effects (“APE”).** The geographic area or areas within which an Undertaking may directly or indirectly cause alterations in the character or use of Historic Properties, if any such properties exist.
4. **Collocation.** The mounting or installation of an Antenna on an existing Tower, building, or structure for the purpose of transmitting radio frequency signals for telecommunications or broadcast purposes.
5. **Effect.** An alteration to the characteristics of a Historic Property qualifying it for inclusion in or eligibility for the National Register.
6. **Experimental Authorization.** An authorization issued to conduct experimentation utilizing radio waves for gathering scientific or technical operation data directed toward the improvement or extension of an established service and not intended for reception and use by the general public. “Experimental Authorization” does not include an “Experimental Broadcast Station” authorized under Part 74 of the Commission's rules.
7. **Facility.** A Tower or an Antenna. The term Facility may also refer to a Tower and its associated Antenna(s).
8. **Field Survey.** A research strategy that utilizes one or more visits to the area where construction is proposed as a means of identifying Historic Properties.
9. **Historic Property.** Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or NHO that meet the National Register criteria.
10. **National Register.** The National Register of Historic Places, maintained by the Secretary of the Interior's office of the Keeper of the National Register.
11. **SHPO/THPO Inventory.** A set of records of previously gathered information, authorized by state or tribal law, on the absence, presence and significance of historic and archeological resources within the state or tribal land.
12. **Special Temporary Authorization.** Authorization granted to a permittee or licensee to allow the operation of a station for a limited period at a specified variance from the terms of the station's permanent authorization or requirements of the Commission's rules applicable to the particular class

or type of station.

13. Submission Packet. The document to be submitted initially to the SHPO/THPO to facilitate review of the Applicant's findings and any determinations with regard to the potential impact of the proposed Undertaking on Historic Properties in the APE. There are two Submission Packets: (a) The New Tower Submission Packet (FCC Form 620) (See Attachment 3) and (b) The Collocation Submission Packet (FCC Form 621) (See Attachment 4). Any documents required to be submitted along with a Form are part of the Submission Packet.

14. Tower. Any structure built for the sole or primary purpose of supporting Commission-licensed or authorized Antennas, including the on-site fencing, equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with that Tower but not installed as part of an Antenna as defined herein.

B. All other terms not defined above or elsewhere in this Nationwide Agreement shall have the same meaning as set forth in the Council's rules section on Definitions (36 C.F.R. § 800.16) or the Commission's rules (47 C.F.R. Chapter I).

C. For the calculation of time periods under this Agreement, "days" mean "calendar days." Any time period specified in the Agreement that ends on a weekend or a Federal or State holiday is extended until the close of the following business day.

D. Written communications include communications by e-mail or facsimile.

### III. UNDERTAKINGS EXCLUDED FROM SECTION 106 REVIEW

Undertakings that fall within the provisions listed in the following sections III.A. through III.F. are excluded from Section 106 review by the SHPO/THPO, the Commission, and the Council, and, accordingly, shall not be submitted to the SHPO/THPO for review. The determination that an exclusion applies to an Undertaking should be made by an authorized individual within the Applicant's organization, and Applicants should retain documentation of their determination that an exclusion applies. Concerns regarding the application of these exclusions from Section 106 review may be presented to and considered by the Commission pursuant to Section XI.

A. Enhancement of a tower and any associated excavation that does not involve a collocation and does not substantially increase the size of the existing tower, as defined in the Collocation Agreement. For towers constructed after March 16, 2001, this exclusion applies only if the tower has completed the Section 106 review process and any associated environmental reviews required by the Commission.

B. Construction of a replacement for an existing communications tower and any associated excavation that does not substantially increase the size of the existing tower under elements 1-3 of the definition as defined in the Collocation Agreement (see Attachment 1 to this Agreement, Stipulation 1.c.1-3) and that does not expand the boundaries of the leased or owned property surrounding the tower by more than 30 feet in any direction or involve excavation outside these expanded boundaries or outside any existing access or utility easement related to the site. For towers

constructed after March 16, 2001, this exclusion applies only if the tower has completed the Section 106 review process and any associated environmental reviews required by the Commission's rules.

C. Construction of any temporary communications Tower, Antenna structure, or related Facility that involves no excavation or where all areas to be excavated will be located in areas described in Section VI.D.2.c.i below, including but not limited to the following:

- 1 A Tower or Antenna authorized by the Commission for a temporary period, such as any Facility authorized by a Commission grant of Special Temporary Authority ("STA") or emergency authorization;
- 2 A cell on wheels (COW) transmission Facility;
- 3 A broadcast auxiliary services truck, TV pickup station, remote pickup broadcast station (e.g., electronic newsgathering vehicle) authorized under Part 74 or temporary fixed or transportable earth station in the fixed satellite service (e.g., satellite newsgathering vehicle) authorized under Part 25;
- 4 A temporary ballast mount Tower;
- 5 Any Facility authorized by a Commission grant of an experimental authorization.

For purposes of this Section III.C, the term "temporary" means "for no more than twenty-four months duration except in the case of those Facilities associated with national security."

- D. Construction of a Facility less than 200 feet in overall height above ground level in an existing industrial park,<sup>1</sup> commercial strip mall,<sup>2</sup> or shopping center<sup>3</sup> that occupies a total land area of 100,000 square feet or more, provided that the industrial park, strip mall, or shopping center is not located within the boundaries of or within 500 feet of a Historic Property, as identified by the Applicant after a preliminary search of relevant records. Proposed Facilities within this exclusion must complete the process of participation of Indian tribes and NHOs pursuant to Section IV of this Agreement. If as a result of this process the Applicant or the Commission identifies a Historic Property that may be affected, the Applicant must complete the Section 106 review process pursuant to this Agreement notwithstanding the exclusion.
- E. Construction of a Facility in or within 50 feet of the outer boundary of a right-of-way designated by a Federal, State, local, or Tribal government for the location of communications Towers or above-ground utility transmission or

<sup>1</sup> A tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial uses, with consideration to transportation facilities, circulation, parking, utility needs, aesthetics and compatibility.

<sup>2</sup> A structure or grouping of structures, housing retail business, set back far enough from the street to permit parking spaces to be placed between the building entrances and the public right of way.

<sup>3</sup> A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

distribution lines and associated structures and equipment and in active use for such purposes, provided:

- 1 The proposed Facility would not constitute a substantial increase in size, under elements 1-3 of the definition in the Collocation Agreement, over existing structures located in the right-of-way within the vicinity of the proposed Facility, and;
- 2 The proposed Facility would not be located within the boundaries of a Historic Property, as identified by the Applicant after a preliminary search of relevant records.

Proposed Facilities within this exclusion must complete the process of participation of Indian tribes and NHOs pursuant to Section IV of this Agreement. If as a result of this process the Applicant or the Commission identifies a Historic Property that may be affected, the Applicant must complete the Section 106 review process pursuant to this Agreement notwithstanding the exclusion.

- F. Construction of a Facility in any area previously designated by the SHPO/THPO at its discretion, following consultation with appropriate Indian tribes and NHOs, as having limited potential to affect Historic Properties. Such designation shall be documented by the SHPO/THPO and made available for public review.

#### IV. PARTICIPATION OF INDIAN TRIBES AND NATIVE HAWAIIAN ORGANIZATIONS IN UNDERTAKINGS OFF TRIBAL LANDS

- A. The Commission recognizes its responsibility to carry out consultation with any Indian tribe or NHO that attaches religious and cultural significance to a Historic Property if the property may be affected by a Commission undertaking. This responsibility is founded in Sections 101(d)(6)(a-b) and 106 of the NHPA (16 U.S.C. §§ 470a(d)(6)(a-b) and 470f), the regulations of the Council (36 C.F.R. Part 800), the Commission's environmental regulations (47 C.F.R. §§ 1.1301-1.1319), and the unique legal relationship that exists between the federal government and Indian Tribal governments, as reflected in the Constitution of the United States, treaties, federal statutes, Executive orders, and numerous court decisions. This historic trust relationship requires the federal government to adhere to certain fiduciary standards in its dealings with Indian Tribes. (Commission Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes).
- B. As an initial step to enable the Commission to fulfill its duty of consultation, Applicants shall use reasonable and good faith efforts to identify any Indian tribe or NHO that may attach religious and cultural significance to Historic Properties that may be affected by an Undertaking. Applicants should be aware that frequently, Historic Properties of religious and cultural significance to Indian tribes and NHOs are located on ancestral, aboriginal, or ceded lands of such tribes and organizations and Applicants should take this into account when complying with their responsibilities. Where an Indian tribe or NHO has voluntarily provided information to the Commission's Tower Construction Notification System regarding the geographic areas in which Historic Properties of religious and cultural significance to that Indian tribe or NHO may be located, reference to the Tower Construction Notification

System shall constitute a reasonable and good faith effort at identification with respect to that Indian tribe or NHO. In addition, such reasonable and good faith efforts may include, but are not limited to, seeking relevant information from the relevant SHPO/THPO, Indian tribes, state agencies, the U.S. Bureau of Indian Affairs (“BIA”), or, where applicable, any federal agency with land holdings within the state (e.g., the U.S. Bureau of Land Management). Although these agencies can provide useful information in identifying potentially affected Indian tribes, contacting BIA, the SHPO or other federal and state agencies is not a substitute for seeking information directly from Indian tribes that may attach religious and cultural significance to a potentially affected Historic Property, as described below.

C. After the Applicant has identified Indian tribes and NHOs that may attach religious and cultural significance to potentially affected Historic Properties, the Commission has the responsibility, and the Commission imposes on the Applicant the obligation, to ensure that contact is made at an early stage in the planning process with such Indian tribes and NHOs in order to begin the process of ascertaining whether such Historic Properties may be affected. This initial contact shall be made by the Commission or the Applicant, in accordance with the wishes of the Indian tribe or NHO. This contact shall constitute only an initial effort to contact the Indian tribe or NHO, and does not in itself fully satisfy the Applicant’s obligations or substitute for government-to-government consultation unless the Indian tribe or NHO affirmatively disclaims further interest or the Indian tribe or NHO has otherwise agreed that such contact is sufficient. Depending on the preference of the Indian tribe or NHO, the means of initial contact may include, without limitation:

- 1 Electronic notification through the Commission’s Tower Construction Notification System;
- 2 Written communication from the Commission at the request of the Applicant;
- 3 Written, e-mail, or telephonic notification directly from the Applicant to the Indian tribe or NHO;
- 4 Any other means that the Indian Tribe or NHO has informed the Commission are acceptable, including through the adoption of best practices pursuant to Section IV.J, below; or
- 5 Any other means to which an Indian tribe or NHO and an Applicant have agreed pursuant to Section IV.K, below.

D. The Commission will use its best efforts to ascertain the preferences of each Indian tribe and NHO for initial contact, and to make these preferences available to Applicants in a readily accessible format. In addition, the Commission will use its best efforts to ascertain, and to make available to Applicants, any locations or types of construction projects, within the broad geographic areas in which Historic Properties of religious and cultural significance to an Indian tribe or NHO may be located, for which the Indian tribe or NHO does not expect notification. To the extent they are comfortable doing so, the Commission encourages Indian tribes and NHOs to accept the Tower Construction Notification System as an efficient and thorough means of making initial contact.

E. In the absence of any contrary indication of an Indian tribe’s or NHO’s preference, where an Applicant does not have a pre-existing relationship with an Indian tribe or NHO, initial contact with the Indian tribe or NHO shall be made through the Commission. Unless the

Indian tribe or NHO has indicated otherwise, the Commission may make this initial contact through the Tower Construction Notification System. An Applicant that has a pre-existing relationship with an Indian tribe or NHO shall make initial contact in the manner that is customary to that relationship or in such other manner as may be accepted by the Indian tribe or NHO. An Applicant shall copy the Commission on any initial written or electronic direct contact with an Indian tribe or NHO, unless the Indian tribe or NHO has agreed through a best practices agreement or otherwise that such copying is not necessary.

F. Applicants' direct contacts with Indian tribes and NHOs, where accepted by the Indian tribe or NHO, shall be made in a sensitive manner that is consistent with the reasonable wishes of the Indian tribe or NHO, where such wishes are known or can be reasonably ascertained. In general, unless an Indian tribe or NHO has provided guidance to the contrary, Applicants shall follow the following guidelines:

- 1 All communications with Indian tribes shall be respectful of tribal sovereignty;
- 2 Communications shall be directed to the appropriate representative designated or identified by the tribal government or other governing body;
- 3 Applicants shall provide all information reasonably necessary for the Indian tribe or NHO to evaluate whether Historic Properties of religious and cultural significance may be affected. The parties recognize that it may be neither feasible nor desirable to provide complete information about the project at the time of initial contact, particularly when initial contact is made early in the process. Unless the Indian tribe or NHO affirmatively disclaims interest, however, it shall be provided with complete information within the earliest reasonable time frame;
- 4 The Applicant must ensure that Indian tribes and NHOs have a reasonable opportunity to respond to all communications. Ordinarily, 30 days from the time the relevant tribal or NHO representative may reasonably be expected to have received an inquiry shall be considered a reasonable time. Should a tribe or NHO request additional time to respond, the Applicant shall afford additional time as reasonable under the circumstances. However, where initial contact is made automatically through the Tower Construction Notification System, and where an Indian tribe or NHO has stated that it is not interested in reviewing proposed construction of certain types or in certain locations, the Applicant need not await a response to contact regarding proposed construction meeting that description;
- 5 Applicants should not assume that failure to respond to a single communication establishes that an Indian tribe or NHO is not interested in participating, but should make a reasonable effort to follow up.

G. The purposes of communications between the Applicant and Indian tribes or NHOs are: (1) to ascertain whether Historic Properties of religious and cultural significance to the Indian tribe or NHO may be affected by the undertaking and consultation is therefore necessary, and (2) where possible, with the concurrence of the Indian tribe or NHO, to reach an agreement on the presence or absence of effects that may obviate the need for consultation. Accordingly, the Applicant shall promptly refer to the Commission any request from a federally recognized Indian tribe for government-to-government consultation. The Commission will then carry out government-to-government consultation with the Indian tribe. Applicants shall also seek guidance from the Commission in the event of any substantive or procedural

disagreement with an Indian tribe or NHO, or if the Indian tribe or NHO does not respond to the Applicant's inquiries. Applicants are strongly advised to seek guidance from the Commission in cases of doubt.

- H. If an Indian tribe or NHO indicates that a Historic Property of religious and cultural significance to it may be affected, the Applicant shall invite the commenting tribe or organization to become a consulting party. If the Indian tribe or NHO agrees to become a consulting party, it shall be afforded that status and shall be provided with all of the information, copies of submissions, and other prerogatives of a consulting party as provided for in 36 C.F.R. § 800.2.
- I. Information regarding Historic Properties to which Indian tribes or NHOs attach religious and cultural significance may be highly confidential, private, and sensitive. If an Indian tribe or NHO requests confidentiality from the Applicant, the Applicant shall honor this request and shall, in turn, request confidential treatment of such materials or information in accordance with the Commission's rules and Section 304 of the NHPA (16 U.S.C. § 470w-3(a)) in the event they are submitted to the Commission. The Commission shall provide such confidential treatment consistent with its rules and applicable federal laws. Although the Commission will strive to protect the privacy interests of all parties, the Commission cannot guarantee its own ability or the ability of Applicants to protect confidential, private, and sensitive information from disclosure under all circumstances.
- J. In order to promote efficiency, minimize misunderstandings, and ensure that communications among the parties are made in accordance with each Indian tribe or NHO's reasonable preferences, the Commission will use its best efforts to arrive at agreements regarding best practices with Indian tribes and NHOs and their representatives. Such best practices may include means of making initial contacts with Indian tribes and NHOs as well as guidelines for subsequent discussions between Applicants and Indian tribes or NHOs in fulfillment of the requirements of the Section 106 process. To the extent possible, the Commission will strive to achieve consistency among best practice agreements with Indian tribes and NHOs. Where best practices exist, the Commission encourages Applicants to follow those best practices.
- K. Nothing in this Section shall be construed to prohibit or limit Applicants and Indian tribes or NHOs from entering into or continuing pre-existing arrangements or agreements governing their contacts, provided such arrangements or agreements are otherwise consistent with federal law and no modification is made in the roles of other parties to the process under this Nationwide Agreement without their consent. Documentation of such alternative arrangements or agreements should be filed with the Commission.



## V. PUBLIC PARTICIPATION AND CONSULTING PARTIES

- A. On or before the date an Applicant submits the appropriate Submission Packet to the SHPO/THPO, as prescribed by Section VII, below, the Applicant shall provide the local government that has primary land use jurisdiction over the site of the planned Undertaking with written notification of the planned Undertaking.
- B. On or before the date an Applicant submits the appropriate Submission Packet to the SHPO/THPO, as prescribed by Section VII, below, the Applicant shall provide written notice to the public of the planned Undertaking. Such notice may be accomplished (1) through the public notification provisions of the relevant local zoning or local historic preservation process for the proposed Facility; or (2) by publication in a local newspaper of general circulation. In the alternative, an Applicant may use other appropriate means of providing public notice, including seeking the assistance of the local government.
- C. The written notice to the local government and to the public shall include: (1) the location of the proposed Facility including its street address; (2) a description of the proposed Facility including its height and type of structure; (3) instruction on how to submit comments regarding potential effects on Historic Properties; and (4) the name, address, and telephone number of a contact person.
- D. A SHPO/THPO may make available lists of other groups, including Indian tribes, NHOs and organizations of Indian tribes or NHOs, which should be provided notice for Undertakings to be located in particular areas.
- E. If the Applicant receives a comment regarding potentially affected Historic Properties, the Applicant shall consider the comment and either include it in the initial submission to the SHPO/THPO, or, if the initial submission has already been made, immediately forward the comment to the SHPO/THPO for review. An Applicant need not submit to the SHPO/THPO any comment that does not substantially relate to potentially affected Historic Properties.
- F. The relevant SHPO/THPO, Indian tribes and NHOs that attach religious and cultural significance to Historic Properties that may be affected, and the local government are entitled to be consulting parties in the Section 106 review of an Undertaking. The Council may enter the Section 106 process for a given Undertaking, on Commission invitation or on its own decision, in accordance with 36 C.F.R. Part 800, Appendix A. An Applicant shall consider all written requests of other individuals and organizations to participate as consulting parties and determine which should be consulting parties. An Applicant is encouraged to grant such status to individuals or organizations with a demonstrated legal or economic interest in the Undertaking, or demonstrated expertise or standing as a representative of local or public interest in historic or cultural resources preservation. Any such individual or organization denied consulting party status may petition the Commission for review of such denial. Applicants may seek assistance from the Commission in identifying and involving consulting

parties. All entities granted consulting party status shall be identified to the SHPO/THPO as part of the Submission Packet.

- G. Consulting parties are entitled to: (1) receive notices, copies of submission packets, correspondence and other documents provided to the SHPO/THPO in a Section 106 review; and (2) be provided an opportunity to have their views expressed and taken into account by the Applicant, the SHPO/THPO and, where appropriate, by the Commission.

## VI. IDENTIFICATION, EVALUATION, AND ASSESSMENT OF EFFECTS

A. In preparing the Submission Packet for the SHPO/THPO and consulting parties pursuant to Section VII of this Nationwide Agreement and Attachments 3 and 4, the Applicant shall: (1) define the area of potential effects (APE); (2) identify Historic Properties within the APE; (3) evaluate the historic significance of identified properties as appropriate; and (4) assess the effects of the Undertaking on Historic Properties. The standards and procedures described below shall be applied by the Applicant in preparing the Submission Packet, by the SHPO/THPO in reviewing the Submission Packet, and where appropriate, by the Commission in making findings.

### B. Exclusion of Specific Geographic Areas from Review.

The SHPO/THPO, consistent with relevant State or tribal procedures, may specify geographic areas in which no review is required for direct effects on archeological resources or no review is required for visual effects.

### C. Area of Potential Effects.

1. The term “Area of Potential Effects” is defined in Section II.A.3 of this Nationwide Agreement. For purposes of this Nationwide Agreement, the APE for direct effects and the APE for visual effects are further defined and are to be established as described below.
2. The APE for direct effects is limited to the area of potential ground disturbance and any property, or any portion thereof, that will be physically altered or destroyed by the Undertaking.
3. The APE for visual effects is the geographic area in which the Undertaking has the potential to introduce visual elements that diminish or alter the setting, including the landscape, where the setting is a character-defining feature of a Historic Property that makes it eligible for listing on the National Register.
4. Unless otherwise established through consultation with the SHPO/THPO, the presumed APE for visual effects for construction of new Facilities is the area from which the Tower will be visible:
  - a. Within a half mile from the tower site if the proposed Tower is 200 feet or less in overall height;
  - b. Within  $\frac{3}{4}$  of a mile from the tower site if the proposed Tower is more than 200 but no more than 400 feet in overall height; or
  - c. Within  $1\frac{1}{2}$  miles from the proposed tower site if the proposed Tower is more than 400 feet in overall height.
5. In the event the Applicant determines, or the SHPO/THPO recommends, that an alternative APE for visual effects is necessary, the Applicant and the SHPO/THPO may mutually agree to an

alternative APE.

6. If the Applicant and the SHPO/THPO, after using good faith efforts, cannot reach an agreement on the use of an alternative APE, either the Applicant or the SHPO/THPO may submit the issue to the Commission for resolution. The Commission shall make its determination concerning an alternative APE within a reasonable time.

#### D. Identification and Evaluation of Historic Properties.

##### 1. Identification and Evaluation of Historic Properties Within the APE for Visual Effects.

a. Except to identify Historic Properties of religious and cultural significance to Indian tribes and NHOs, Applicants shall identify Historic Properties within the APE for visual effects by reviewing the following records. Applicants are required to review such records only to the extent they are available at the offices of the SHPO/THPO or can be found in publicly available sources identified by the SHPO/THPO. With respect to these properties, Applicants are not required to undertake a Field Survey or other measures other than reviewing these records in order to identify Historic Properties:

i. Properties listed in the National Register;

ii. Properties formally determined eligible for listing by the Keeper of the National Register;

iii. Properties that the SHPO/THPO certifies are in the process of being nominated to the National Register;

Properties previously determined eligible as part of a consensus determination of eligibility between the SHPO/THPO and a Federal Agency or local government representing the Department of Housing and Urban Development (HUD); and

Properties previously determined eligible as part of a consensus determination of eligibility between the SHPO/THPO and a Federal Agency or local government representing the Department of Housing and Urban Development (HUD); and

Properties listed in the SHPO/THPO Inventory that the SHPO/THPO has previously evaluated and found to meet the National Register criteria, and that are identified accordingly in the SHPO/THPO Inventory.

b. At an early stage in the planning process and in accordance with Section IV of this Nationwide Agreement, the Commission or the Applicant, as appropriate, shall gather information from Indian tribes or NHOs identified pursuant to Section IV.B to assist in identifying Historic Properties of religious and cultural significance to them within the APE for visual effects. Such information gathering may include a Field Survey where appropriate.

c. Based on the sources listed above and public comment received pursuant to Section V of this Nationwide Agreement, the Applicant shall include in its Submission Packet a list of properties it has identified as apparent Historic Properties within the APE for visual effects.

i. During the review period described in Section VII.A, the SHPO/THPO may identify additional properties included in the SHPO/THPO Inventory and located within the APE that the SHPO/THPO considers eligible for listing on the National Register, and notify the Applicant pursuant to Section VII.A.4.

ii. The SHPO/THPO may also advise the Applicant that previously identified properties on the list no longer qualify for inclusion in the National Register.

d. Applicants are encouraged at their discretion to use the services of professionals who meet the Secretary of the Interior's Professional Qualification Standards when identifying Historic Properties within the APE for visual effects.

e. Applicants are not required to evaluate the historic significance of properties identified pursuant to Section VI.D.1.a., but may rely on the previous evaluation of these properties. Applicants may, at their discretion, evaluate whether such properties are no longer eligible for inclusion in the National Register and recommend to the SHPO/THPO their removal from consideration. Any such evaluation shall be performed by a professional who meets the Secretary of the Interior's Professional Qualification Standards.

## 2. Identification and Evaluation of Historic Properties Within the APE for Direct Effects.

a. In addition to the properties identified pursuant to Section VI.D.1, Applicants shall make a reasonable good faith effort to identify other above ground and archeological Historic Properties, including buildings, structures, and historic districts, that lie within the APE for direct effects. Such reasonable and good faith efforts may include a Field Survey where appropriate.

b. Identification and evaluation of Historic Properties within the APE for direct effects, including any finding that an archeological Field Survey is not required, shall be undertaken by a professional who meets the Secretary of the Interior's Professional Qualification Standards. Identification and evaluation relating to archeological resources shall be performed by a professional who meets the Secretary of the Interior's Professional Qualification Standards in archeology.

c. Except as provided below, the Applicant need not undertake a Field Survey for archeological resources where:

i. the depth of previous disturbance exceeds the proposed construction depth (excluding footings and other anchoring mechanisms) by at least 2 feet as documented in the Applicant's siting analysis; or

ii. geomorphological evidence indicates that cultural resource-bearing soils do not occur within the project area or may occur but at depths that exceed 2 feet below the proposed construction depth.

d. At an early stage in the planning process and in accordance with Section IV of this Nationwide Agreement, the

Commission or the Applicant, as appropriate, shall gather information from Indian tribes or NHOs identified pursuant to Section IV.B to assist in identifying archeological Historic Properties of religious and cultural significance to them within the APE for direct effects. If an Indian tribe or NHO provides evidence that supports a high probability of the presence of intact archeological Historic Properties within the APE for direct effects, the Applicant shall conduct an archeological Field Survey notwithstanding Section VI.D.2.c.

- e. Where the Applicant pursuant to Sections VI.D.2.c and VI.D.2.d finds that no archeological Field Survey is necessary, it shall include in its Submission Packet a report substantiating this finding. During the review period described in Section VII.A, the SHPO/THPO may, based on evidence that supports a high probability of the presence of intact archeological Historic Properties within the APE for direct effects, notify the Applicant that the Submission Packet is inadequate without an archeological Field Survey pursuant to Section VII.A.4.
- f. The Applicant shall conduct an archeological Field Survey within the APE for direct effects if neither of the conditions in Section VI.D.2.c applies, or if required pursuant to Section VI.D.2.d or e. The Field Survey shall be conducted in consultation with the SHPO/THPO and consulting Indian tribes or NHOs.
- g. The Applicant, in consultation with the SHPO/THPO and appropriate Indian tribes or NHOs, shall apply the National Register criteria (36 C.F.R. Part 63) to properties identified within the APE for direct effects that have not previously been evaluated for National Register eligibility, with the exception of those identified pursuant to Section VI.D.1.a.

### 3. Dispute Resolution

Where there is a disagreement regarding the identification or eligibility of a property, and after attempting in good faith to resolve the issue the Applicant and the SHPO/THPO continue to disagree, the Applicant or the SHPO/THPO may submit the issue to the Commission. The Commission shall handle such submissions in accordance with 36 C.F.R. § 800.4(c)(2).

#### E. Assessment of Effects

- 1 Applicants shall assess effects of the Undertaking on Historic Properties using the Criteria of Adverse Effect (36 C.F.R. § 800.5(a)(1)).
- 2 In determining whether Historic Properties in the APE may be adversely affected by the Undertaking, the Applicant should consider factors such as the topography, vegetation, known presence of Historic Properties, and existing land use.
- 3 An Undertaking will have a visual adverse effect on a Historic Property if the visual effect from the Facility will noticeably diminish the integrity of one or more of the characteristics qualifying the property for inclusion in or eligibility for the National Register. Construction of a Facility will not cause a visual adverse effect except where visual setting or visual elements are character-defining features of eligibility of a Historic Property located within the APE.
- 4 For collocations not excluded from review by the Collocation Agreement or this Agreement, the assessment of effects will consider only effects from the newly added or modified Facilities and not effects from the existing Tower or Antenna.
- 5 Assessment pursuant to this Agreement shall be performed by professionals who meet the Secretary of the Interior's Professional Qualification Standards.

#### VII. PROCEDURES

##### A. Use of the Submission Packet.

- 1 For each Undertaking within the scope of this Nationwide Agreement, the Applicant shall initially determine whether there are no Historic Properties affected, no adverse effect on Historic Properties, or an adverse effect on Historic Properties. The Applicant shall prepare a Submission Packet and submit it to the SHPO/THPO and to all consulting parties, including any Indian tribe or NHO that is participating as a consulting party.
- 2 The SHPO/THPO shall have 30 days from receipt of the requisite documentation to review the Submission Packet.
- 3 If the SHPO/THPO receives a comment or objection, in accordance with Section V.E, more than 25 but less than 31 days following its receipt of the initial submission, the SHPO/THPO shall have five calendar days to consider such comment or objection before the Section 106 process is complete or the matter may be submitted to the Commission.
- 4 If the SHPO/THPO determines the Applicant's Submission Packet is inadequate, or if the SHPO/THPO identifies additional Historic Properties within the APE, the SHPO/THPO will immediately notify the Applicant and describe any deficiencies. The SHPO/THPO may close its file without prejudice if the Applicant does not resubmit an amended Submission Packet within 60 days following the Applicant's receipt of the returned Submission Packet. Resubmission of the Submission Packet to the SHPO/THPO commences a new 30 day period for review.



## B. Determinations of No Historic Properties Affected.

- 1 If the SHPO/THPO concurs in writing with the Applicant's determination of no Historic Properties affected, it is deemed that no Historic Properties exist within the APE or the Undertaking will have no effect on any Historic Properties located within the APE. The Section 106 process is then complete, and the Applicant may proceed with the project, unless further processing for reasons other than Section 106 is required.
- 2 If the SHPO/THPO does not provide written notice to the Applicant that it agrees or disagrees with the Applicant's determination of no Historic Properties affected within 30 days following receipt of a complete Submission Packet, it is deemed that no Historic Properties exist within the APE or the Undertaking will have no effect on Historic Properties. The Section 106 process is then complete and the Applicant may proceed with the project, unless further processing for reasons other than Section 106 is required.
- 3 If the SHPO/THPO provides written notice within 30 days following receipt of the Submission Packet that it disagrees with the Applicant's determination of no Historic Properties affected, it should provide a short and concise explanation of exactly how the criteria of eligibility and/or criteria of Adverse Effect would apply. The Applicant and the SHPO/THPO should engage in further discussions and make a reasonable and good faith effort to resolve their disagreement.
- 4 If the SHPO/THPO and Applicant do not resolve their disagreement, the Applicant may at any time choose to submit the matter, together with all relevant documents, to the Commission, advising the SHPO/THPO accordingly.

## C. Determinations of No Adverse Effect.

1. If the SHPO/THPO concurs in writing with the Applicant's determination of no adverse effect, the Facility is deemed to have no adverse effect on Historic Properties. The Section 106 process is then complete and the Applicant may proceed with the project, unless further processing for reasons other than Section 106 is required.
2. If the SHPO/THPO does not provide written notice to the Applicant that it agrees or disagrees with the Applicant's determination of no adverse effect within thirty days following its receipt of a complete Submission Packet, the SHPO/THPO is presumed to have concurred with the Applicant's determination. The Applicant shall, pursuant to procedures to be promulgated by the Commission, forward a copy of its Submission Packet to the Commission, together with all correspondence with the SHPO/THPO and any comments or objections received from the public, and advise the SHPO/THPO accordingly. The Section 106 process shall then be complete unless the Commission notifies the Applicant otherwise within 15 days after the Commission receives the Submission Packet and accompanying material electronically or 25 days after the Commission receives this material by other means.
3. If the SHPO/THPO provides written notice within 30 days following receipt of the Submission Packet that it disagrees with the Applicant's determination of no adverse effect, it should provide a short and concise explanation of the Historic Properties it believes to be affected and exactly how the criteria of Adverse Effect would apply. The Applicant and the SHPO/THPO should engage in further discussions and make a reasonable and good faith effort to resolve their disagreement.
4. If the SHPO/THPO and Applicant do not resolve their dispute, the Applicant may at any time choose to submit the matter, together with all relevant documents, to the Commission, advising the SHPO/THPO accordingly.
5. Whenever the Applicant or the Commission concludes, or a SHPO/THPO advises, that a proposed project will have an adverse effect on a Historic Property, after applying the criteria of Adverse

Effect, the Applicant and the SHPO/THPO are encouraged to investigate measures that would avoid the adverse effect and permit a conditional “No Adverse Effect” determination.

6. If the Applicant and SHPO/THPO mutually agree upon conditions that will result in no adverse effect, the Applicant shall advise the SHPO/THPO in writing that it will comply with the conditions. The Applicant can then make a determination of no adverse effect subject to its implementation of the conditions. The Undertaking is then deemed conditionally to have no adverse effect on Historic Properties, and the Applicant may proceed with the project subject to compliance with those conditions. Where the Commission has previously been involved in the matter, the Applicant shall notify the Commission of this resolution.

#### D. Determinations of Adverse Effect.

1 If the Applicant determines at any stage in the process that an Undertaking would have an adverse effect on Historic Properties within the APE(s), or if the Commission so finds, the Applicant shall submit to the SHPO/THPO a plan designed to avoid, minimize, or mitigate the adverse effect.

2 The Applicant shall forward a copy of its submission with its mitigation plan and the entire record to the Council and the Commission. Within fifteen days following receipt of the Applicant’s submission, the Council shall indicate whether it intends to participate in the negotiation of a Memorandum of Agreement by notifying both the Applicant and the Commission.

3 Where the Undertaking would have an adverse effect on a National Historic Landmark, the Commission shall request the Council to participate in consultation and shall invite participation by the Secretary of the Interior.

4 The Applicant, SHPO/THPO, and consulting parties shall negotiate a Memorandum of Agreement that shall be sent to the Commission for review and execution.

5 If the parties are unable to agree upon mitigation measures, they shall submit the matter to the Commission, which shall coordinate additional actions in accordance with the Council’s rules, including 36 C.F.R. §§ 800.6(b)(1)(v) and 800.7.

#### E. Retention of Information.

The SHPO/THPO shall, subject to applicable state or tribal laws and regulations, and in accordance with its rules and procedures governing historic property records, retain the information in the Submission Packet pertaining to the location and National Register eligibility of Historic Properties and make such information available to Federal agencies and Applicants in other Section 106 reviews, where disclosure is not prevented by the confidentiality standards in 36 C.F.R. § 800.11(c).

#### F. Removal of Obsolete Towers.

Applicants that construct new Towers under the terms of this Nationwide Agreement adjacent to or within the boundaries of a Historic Property are encouraged to disassemble such Towers should they become obsolete or remain vacant for a year or more.

## VIII. EMERGENCY SITUATIONS

Unless the Commission deems it necessary to issue an emergency authorization in accordance with its rules, or the Undertaking is otherwise excluded from Section 106 review pursuant to the Collocation Agreement or Section III of this Agreement, the procedures in this Agreement shall apply.

## IX. INADVERTENT OR POST-REVIEW DISCOVERIES

A. In the event that an Applicant discovers a previously unidentified site within the APE that may be a Historic Property that would be affected by an Undertaking, the Applicant shall promptly notify the Commission, the SHPO/THPO and any potentially affected Indian tribe or NHO, and within a reasonable time shall submit to the Commission, the SHPO/THPO and any potentially affected Indian tribe or NHO, a written report evaluating the property's eligibility for inclusion in the National Register. The Applicant shall seek the input of any potentially affected Indian tribe or NHO in preparing this report. If found during construction, construction must cease until evaluation has been completed.

B. If the Applicant and SHPO/THPO concur that the discovered resource is eligible for listing in the National Register, the Applicant will consult with the SHPO/THPO, and Indian tribes or NHOs as appropriate, to evaluate measures that will avoid, minimize, or mitigate adverse effects. Upon agreement regarding such measures, the Applicant shall implement them and notify the Commission of its action.

C. If the Applicant and SHPO/THPO cannot reach agreement regarding the eligibility of a property, the matter will be referred to the Commission for review in accordance with Section VI.D.3. If the Applicant and the SHPO/THPO cannot reach agreement on measures to avoid, minimize, or mitigate adverse effects, the matter shall be referred to the Commission for appropriate action.

D. If the Applicant discovers any human or burial remains during implementation of an Undertaking, the Applicant shall cease work immediately, notify the SHPO/THPO and Commission, and adhere to applicable State and Federal laws regarding the treatment of human or burial remains.

## X. CONSTRUCTION PRIOR TO COMPLIANCE WITH SECTION 106

A. The terms of Section 110(k) of the National Historic Preservation Act (16 U.S.C. § 470h-2(k)) ("Section 110(k)") apply to Undertakings covered by this Agreement. Any SHPO/THPO, potentially affected Indian tribe or NHO, the Council, or a member of the public may submit a complaint to the Commission alleging that a facility has been constructed or partially constructed after the effective date of this Agreement in violation of Section 110(k). Any such complaint must be in writing and supported by substantial evidence specifically describing how Section 110(k) has been violated. Upon receipt of such complaint the Commission will assume responsibility for investigating the applicability of Section 110(k) in accordance with the provisions herein.

- B. If upon its initial review, the Commission concludes that a complaint on its face demonstrates a probable violation of Section 110(k), the Commission will immediately notify and provide the relevant Applicant with copies of the Complaint and order that all construction of a new tower or installation of any new collocations immediately cease and remain suspended pending the Commission's resolution of the complaint.
- C. Within 15 days of receipt, the Commission will review the complaint and take appropriate action, which the Commission may determine, and which may include the following:
- 1 Dismiss the complaint without further action if the complaint does not establish a probable violation of Section 110(k) even if the allegations are taken as true;
  - 2 Provide the Applicant with a copy of the complaint and request a written response within a reasonable time;
  - 3 Request from the Applicant a background report which documents the history and chronology of the planning and construction of the Facility;
  - 4 Request from the Applicant a summary of the steps taken to comply with the requirements of Section 106 as set forth in this Nationwide Agreement, particularly the application of the Criteria of Adverse Effect;
  - 5 Request from the Applicant copies of any documents regarding the planning or construction of the Facility, including correspondence, memoranda, and agreements;
  - 6 If the Facility was constructed prior to full compliance with the requirements of Section 106, request from the Applicant an explanation for such failure, and possible measures that can be taken to mitigate any resulting adverse effects on Historic Properties.
- D. If the Commission concludes that there is a probable violation of Section 110(k) (i.e., that "with intent to avoid the requirements of Section 106, [an Applicant] has intentionally significantly adversely affected a Historic Property"), the Commission shall notify the Applicant and forward a copy of the documentation set forth in Section X.C. to the Council and, as appropriate, the SHPO/THPO and other consulting parties, along with the Commission's opinion regarding the probable violation of Section 110(k). The Commission will consider the views of the consulting parties in determining a resolution, which may include negotiating a Memorandum of Agreement (MOA) that will resolve any adverse effects. The Commission, SHPO/THPO, Council, and Applicant shall sign the MOA to evidence acceptance of the mitigation plan and conclusion of the Section 106 review process.

- E. Nothing in Section X or any other provision of this Agreement shall preclude the Commission from continuing or instituting enforcement proceedings under the Communications Act and its rules against an Applicant that has constructed a Facility prior to completing required review under this Agreement. Sanctions for violations of the Commission's rules may include any sanctions allowed under the Communications Act and the Commission's rules.
- F. The Commission shall provide copies of all concluding reports or orders for all Section 110(k) investigations conducted by the Commission to the original complainant, the Applicant, the relevant local government, and other consulting parties.
- G. Facilities that are excluded from Section 106 review pursuant to the Collocation Agreement or Section III of this Agreement are not subject to review under this provision. Any parties who allege that such Facilities have violated Section 110(k) should notify the Commission in accordance with the provisions of Section XI, Public Comments and Objections.

## XI. PUBLIC COMMENTS AND OBJECTIONS

Any member of the public may notify the Commission of concerns it has regarding the application of this Nationwide Agreement within a State or with regard to the review of individual Undertakings covered or excluded under the terms of this Agreement. Comments related to telecommunications activities shall be directed to the Wireless Telecommunications Bureau and those related to broadcast facilities to the Media Bureau. The Commission will consider public comments and following consultation with the SHPO/THPO, potentially affected Indian tribes and NHOs, or Council, where appropriate, take appropriate actions. The Commission shall notify the objector of the outcome of its actions.

## XII. AMENDMENTS

The signatories may propose modifications or other amendments to this Nationwide Agreement. Any amendment to this Agreement shall be subject to appropriate public notice and comment and shall be signed by the Commission, the Council, and the Conference.

### XIII. TERMINATION

- A. Any signatory to this Nationwide Agreement may request termination by written notice to the other parties. Within sixty (60) days following receipt of a written request for termination from a signatory, all other signatories shall discuss the basis for the termination request and seek agreement on amendments or other actions that would avoid termination.
- B. In the event that this Agreement is terminated, the Commission and all Applicants shall comply with the requirements of 36 C.F.R. Part 800.

### XIV. ANNUAL REVIEW

The signatories to this Nationwide Agreement will meet annually on or about the anniversary of the effective date of the Agreement to discuss the effectiveness of this Agreement, including any issues related to improper implementation, and to discuss any potential amendments that would improve the effectiveness of this Agreement.

### XV. RESERVATION OF RIGHTS

Neither execution of this Agreement, nor implementation of or compliance with any term herein, shall operate in any way as a waiver by any party hereto, or by any person or entity complying herewith or affected hereby, of a right to assert in any court of law any claim, argument or defense regarding the validity or interpretation of any provision of the NHPA or its implementing regulations contained in 36 C.F.R. Part 800.

### XVI. SEVERABILITY

If any section, subsection, paragraph, sentence, clause or phrase in this Agreement is, for any reason, held to be unconstitutional or invalid or ineffective, such decision shall not affect the validity or effectiveness of the remaining portions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officers as of the day and year first written above.

FEDERAL COMMUNICATIONS COMMISSION

\_\_\_\_\_ Date \_\_\_\_\_ Chairman

ADVISORY COUNCIL ON HISTORIC PRESERVATION

\_\_\_\_\_ Date \_\_\_\_\_ Chairman

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

\_\_\_\_\_ Date \_\_\_\_\_ President



## **APPENDIX D**

### **Collocation of Wireless Antennas**

**NATIONWIDE PROGRAMMATIC AGREEMENT for the COLLOCATION OF WIRELESS  
ANTENNAS**

**Executed by**

**The FEDERAL COMMUNICATIONS COMMISSION, The NATIONAL CONFERENCE OF  
STATE HISTORIC PRESERVATION OFFICERS and The ADVISORY COUNCIL ON  
HISTORIC PRESERVATION**

WHEREAS, the Federal Communications Commission (FCC) establishes rules and procedures for the licensing of wireless communications facilities in the United States and its Possessions and Territories; and,

WHEREAS, the FCC has largely deregulated the review of applications for the construction of individual wireless communications facilities and, under this framework, applicants are required to prepare an Environmental Assessment (EA) in cases where the applicant determines that the proposed facility falls within one of certain environmental categories described in the FCC's rules (47 C.F.R. § 1.1307), including situations which may affect historical sites listed or eligible for listing in the National Register of Historic Places ("National Register"); and,

WHEREAS, Section 106 of the National Historic Preservation Act (16 U.S.C. §§ 470 *et seq.*) ("the Act") requires federal agencies to take into account the effects of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment; and,

WHEREAS, Section 800.14(b) of the Council's regulations, "Protection of Historic Properties" (36 CFR § 800.14(b)), allows for programmatic agreements to streamline and tailor the Section 106 review process to particular federal programs; and,

WHEREAS, in August 2000, the Council established a Telecommunications Working Group to provide a forum for the FCC, Industry representatives, State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs), and the Council to discuss improved coordination of Section 106 compliance regarding wireless communications projects affecting historic properties; and,

WHEREAS, the FCC, the Council and the Working Group have developed this Collocation Programmatic Agreement in accordance with 36 CFR Section 800.14(b) to address the Section 106 review process as it applies to the collocation of antennas (collocation being defined in Stipulation I.A below); and,

WHEREAS, the FCC encourages collocation of antennas where technically and economically feasible, in order to reduce the need for new tower construction; and,

WHEREAS, the parties hereto agree that the effects on historic properties of collocations of antennas on towers, buildings and structures are likely to be minimal and not adverse, and that in the cases where an adverse effect might occur, the procedures provided and referred to herein are proper and sufficient, consistent with Section 106, to assure that the FCC will take such effects into account; and

WHEREAS, the execution of this Nationwide Collocation Programmatic Agreement will streamline the Section 106 review of collocation proposals and thereby reduce the need for the construction of new towers, thereby reducing potential effects on historic properties that would otherwise result from the construction of those unnecessary new towers; and,

WHEREAS, the FCC and the Council have agreed that these measures should be incorporated into a Nationwide Programmatic Agreement to better manage the Section 106 consultation process and streamline reviews for collocation of antennas; and,

WHEREAS, since collocations reduce both the need for new tower construction and the potential for adverse effects on historic properties, the parties hereto agree that the terms of this Agreement should be interpreted and implemented wherever possible in ways that encourage collocation; and

WHEREAS, the parties hereto agree that the procedures described in this Agreement are, with regard to collocations as defined herein, a proper substitute for the FCC's compliance with the Council's rules, in accordance and consistent with Section 106 of the National Historic Preservation Act and its implementing regulations found at 36 CFR Part 800; and

WHEREAS, the FCC has consulted with the National Conference of State Historic Preservation Officers (NCSHPO) and requested the President of NCSHPO to sign this Nationwide Collocation Programmatic Agreement in accordance with 36 CFR Section 800.14(b)(2)(iii); and,

WHEREAS, the FCC sought comment from Indian tribes and Native Hawaiian Organizations regarding the terms of this Nationwide Programmatic Agreement by letters of January 11, 2001 and February 8, 2001; and,

WHEREAS, the terms of this Programmatic Agreement do not apply on "tribal lands" as defined under Section 800.16(x) of the Council's regulations, 36 CFR § 800.16(x) ("Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities."); and,

WHEREAS, the terms of this Programmatic Agreement do not preclude Indian tribes or Native Hawaiian Organizations from consulting directly with the FCC or its licensees, tower companies and applicants for antenna licenses when collocation activities off tribal lands may affect historic properties of religious and cultural significance to Indian tribes or Native Hawaiian organizations; and,

WHEREAS, the execution and implementation of this Nationwide Collocation Programmatic Agreement will not preclude members of the public from filing complaints with the FCC or the Council regarding adverse effects on historic properties from any existing tower or any activity covered under the terms of this Programmatic Agreement.

NOW THEREFORE, the FCC, the Council, and NCSHPO agree that the FCC will meet its Section 106 compliance responsibilities for the collocation of antennas as follows.

## STIPULATIONS

The FCC, in coordination with licensees, tower companies and applicants for antenna licenses, will ensure that the following measures are carried out.

### I. DEFINITIONS

For purposes of this Nationwide Programmatic Agreement, the following definitions apply.

- A. “Collocation” means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- B. “Tower” is any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.
- C. “Substantial increase in the size of the tower” means:
  - 1) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
  - 2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
  - 3) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
  - 4) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

### II. APPLICABILITY

- A. This Nationwide Collocation Programmatic Agreement applies only to the collocation of antennas as defined in Stipulation I.A, above.
- B. This Nationwide Collocation Programmatic Agreement does not cover any Section 106 responsibilities that federal agencies other than the FCC may have with regard to the collocation of antennas.

III. COLLOCATION OF ANTENNAS ON TOWERS CONSTRUCTED ON OR BEFORE MARCH 16, 2001

A. An antenna may be mounted on an existing tower constructed on or before March 16, 2001 without such collocation being reviewed under the consultation process set forth under Subpart B of 36 CFR Part 800, unless:

1. The mounting of the antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.C, above; or
2. The tower has been determined by the FCC to have an effect on one or more historic properties, unless such effect has been found to be not adverse through a no adverse effect finding, or if found to be adverse or potentially adverse, has been resolved, such as through a conditional no adverse effect determination, a Memorandum of Agreement, a programmatic agreement, or otherwise in compliance with Section 106 and Subpart B of 36 CFR Part 800; or
3. The tower is the subject of a pending environmental review or related proceeding before the FCC involving compliance with Section 106 of the National Historic Preservation Act; or
4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

#### IV. COLLOCATION OF ANTENNAS ON TOWERS CONSTRUCTED AFTER MARCH 16, 2001

A. An antenna may be mounted on an existing tower constructed after March 16, 2001 without such collocation being reviewed under the consultation process set forth under Subpart B of 36 CFR Part 800, unless:

- The Section 106 review process for the tower set forth in 36 CFR Part 800 and any associated environmental reviews required by the FCC have not been completed; or
- The mounting of the new antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.C, above; or
- The tower as built or proposed has been determined by the FCC to have an effect on one or more historic properties, unless such effect has been found to be not adverse through a no adverse effect finding, or if found to be adverse or potentially adverse, has been resolved, such as through a conditional no adverse effect determination, a Memorandum of Agreement, a programmatic agreement, or otherwise in compliance with Section 106 and Subpart B of 36 CFR Part 800; or
- The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

#### — V. COLLOCATION OF ANTENNAS ON BUILDINGS AND NON-TOWER STRUCTURES OUTSIDE OF HISTORIC DISTRICTS

A. An antenna may be mounted on a building or non-tower structure without such collocation being reviewed under the consultation process set forth under Subpart B of 36 CFR Part 800, unless:

1. The building or structure is over 45 years old;<sup>1</sup> or
2. The building or structure is inside the boundary of a historic district, or if the antenna is visible from the ground level of the historic district, the building or structure is within 250 feet of the boundary of the historic district; or
3. The building or non-tower structure is a designated National Historic Landmark, or listed in or eligible for listing in the National Register of Historic Places based upon the review of the licensee, tower company or applicant for an antenna license; or
4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

<sup>1</sup> Suitable methods for determining the age of a building include, but are not limited to: (1) obtaining the opinion of a consultant who meets the Secretary of Interior's Professional Qualifications Standards (36 CFR Part 61) or (2)

B. Subsequent to the collocation of an antenna, should the SHPO/THPO or Council determine that the collocation of the antenna or its associated equipment installed under the terms of Stipulation V has resulted in an adverse effect on historic properties, the SHPO/THPO or Council may notify the FCC accordingly. The FCC shall comply with the requirements of Section 106 and 36 CFR Part 800 for this particular collocation.

## VI. RESERVATION OF RIGHTS

Neither execution of this Agreement, nor implementation of or compliance with any term herein shall operate in any way as a waiver by any party hereto, or by any person or entity complying herewith or affected hereby, of a right to assert in any court of law any claim, argument or defense regarding the validity or interpretation of any provision of the National Historic Preservation Act (16 U.S.C. §§ 470 *et seq.*) or its implementing regulations contained in 36 CFR Part 800.

## VII. MONITORING

A. FCC licensees shall retain records of the placement of all licensed antennas, including collocations subject to this Nationwide Programmatic Agreement, consistent with FCC rules and procedures.

B. The Council will forward to the FCC and the relevant SHPO any written objections it receives from members of the public regarding a collocation activity or general compliance with the provisions of this Nationwide Programmatic Agreement within thirty (30) days following receipt of the written objection. The FCC will forward a copy of the written objection to the appropriate licensee or tower owner.

## VIII. AMENDMENTS

If any signatory to this Nationwide Collocation Programmatic Agreement believes that this Agreement should be amended, that signatory may at any time propose amendments, whereupon the signatories will consult to consider the amendments. This agreement may be amended only upon the written concurrence of the signatories.

consulting public records.



## IX. TERMINATION

A. If the FCC determines that it cannot implement the terms of this Nationwide Collocation Programmatic Agreement, or if the FCC, NCSHPO or the Council determines that the Programmatic Agreement is not being properly implemented by the parties to this Programmatic Agreement, the FCC, NCSHPO or the Council may propose to the other signatories that the Programmatic Agreement be terminated.

B. The party proposing to terminate the Programmatic Agreement shall notify the other signatories in writing, explaining the reasons for the proposed termination and the particulars of the asserted improper implementation. Such party also shall afford the other signatories a reasonable period of time of no less than thirty (30) days to consult and remedy the problems resulting in improper implementation. Upon receipt of such notice, the parties shall consult with each other and notify and consult with other entities that are either involved in such implementation or that would be substantially affected by termination of this Agreement, and seek alternatives to termination. Should the consultation fail to produce within the original remedy period or any extension, a reasonable alternative to termination, a resolution of the stated problems, or convincing evidence of substantial implementation of this Agreement in accordance with its terms, this Programmatic Agreement shall be terminated thirty days after notice of termination is served on all parties and published in the Federal Register.

C. In the event that the Programmatic Agreement is terminated, the FCC shall advise its licensees and tower construction companies of the termination and of the need to comply with any applicable Section 106 requirements on a case-by-case basis for collocation activities.

## X. ANNUAL MEETING OF THE SIGNATORIES

The signatories to this Nationwide Collocation Programmatic Agreement will meet on or about September 10, 2001, and on or about September 10 in each subsequent year, to discuss the effectiveness of this Agreement, including any issues related to improper implementation, and to discuss any potential amendments that would improve the effectiveness of this Agreement.

## XI. DURATION OF THE PROGRAMMATIC AGREEMENT

This Programmatic Agreement for collocation shall remain in force unless the Programmatic Agreement is terminated or superseded by a comprehensive Programmatic Agreement for wireless communications antennas.

Execution of this Nationwide Programmatic Agreement by the FCC, NCSHPO and the Council, and implementation of its terms, evidence that the FCC has afforded the Council an opportunity to comment on the collocation as described herein of antennas covered under the FCC's rules, and that the FCC has taken into account the effects of these collocations on historic properties in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800.

**FEDERAL COMMUNICATIONS COMMISSION**

\_\_\_\_\_ **Date:** \_\_\_\_\_

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

\_\_\_\_\_ **Date:** \_\_\_\_\_

**NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS**

\_\_\_\_\_ **Date:** \_\_\_\_\_