

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

Draft
Program Comment for Telecommunications Projects on Federal Property
(Incorporates DHS and FCC edits)

January 13, 2017

Section 106 of the National Historic Preservation Act, 54 U.S.C. § 306108 (Section 106), requires federal agencies to “take into account” the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings. The ACHP has issued regulations that set forth the process through which federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 (Section 106 regulations).

Under Section 800.14(e) of those regulations, agencies can request the ACHP to provide a “Program Comment” on a particular category of undertakings in lieu of conducting separate reviews of each individual undertaking under such category, as set forth in 36 CFR §§ 800.3 through 800.7. Federal Land Managing Agencies (LMAs) and Federal Property Managing Agencies (PMAs) can meet their Section 106 responsibilities with regard to the effects of particular undertakings by taking into account this Program Comment and following the steps set forth therein.

I. Introduction

The purpose of this Program Comment is to assist Federal LMAs and Federal PMAs in permitting and approving the deployment of telecommunications infrastructure more efficiently. This Program Comment establishes uniform strategies for addressing Section 106 compliance for the collocation of antennas on existing wireless towers; installation of aerial telecommunications cable; burying telecommunications cable in existing road, railroad, and utility rights-of-way (ROW); and construction of new telecommunication towers (facilities). These activities would typically not result in adverse effects to historic properties. Federal LMAs/PMAs may elect to follow this Program Comment in lieu of the procedures in 36 CFR §§800.3 through 800.7 for individual undertakings falling within its scope. Public involvement remains a critical aspect of the Section 106 process; therefore, it is at the discretion of the Federal LMAs/PMAs to determine the method for public engagement based on the agency’s established protocols. In addition, for the purpose of this Program Comment, Federal LMAs/PMAs are encouraged to identify a single point of contact and a Lead Federal Agency for telecommunications projects involving multiple Federal agencies.

This Program Comment draws upon the precedent of two Nationwide Programmatic Agreements (NPAs) for wireless telecommunications projects that were executed in 2001 and 2005 among the Federal Communications Commission (FCC), ACHP, and the National

42 Conference of State Historic Preservation Officers (NCSHPO). These NPAs have been successful
43 in establishing in tower construction and collocation, which the LMAs/PMAs are interested in
44 adopting for their broadband deployment activities.

45 Many State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs),
46 Indian tribes, and Native Hawaiian organizations (NHOs) have been accustomed to reviewing
47 applications for wireless communications facilities under the terms of the NPAs. Therefore,
48 when asked to expand the use of the NPAs to cover telecommunications activities funded
49 under the American Recovery and Reinvestment Act of 2009, the ACHP issued a Program
50 Comment for the Broadband Initiatives Program and the Broadband Technology Opportunities
51 Program in 2009. This Program Comment allows the U.S. Department of Agriculture, Rural
52 Utilities Service and the Department of Commerce, National Telecommunications and
53 Information Administration to review towers and collocations under the FCC's NPAs and to
54 eliminate duplicative reviews for undertakings subject to FCC licensing or registration. In 2015,
55 the Broadband Program Comment was extended for another 20 years and expanded to allow
56 additional agencies that fund communication facilities (including Department of Homeland
57 Security [DHS], Federal Railroad Administration [FRA], Federal Transit Authority [FTA], and
58 FirstNet) to utilize its terms to comply with Section 106 for those undertakings. Since this
59 Program Comment and the FCC NPAs do not address the special needs of Federal LMAs and
60 PMAs in regard to Section 106 reviews for deployment of telecommunications Infrastructure,
61 this Program Comment will do so consistent with Executive Order 13616, Accelerating
62 Broadband Infrastructure Deployment (June 2012).

63
64 In June 2012, Executive Order 13616 established the Broadband Deployment on Federal
65 Property Working Group (Working Group) in order to expedite processes and implement
66 efficiencies with the goal of increasing the deployment of broadband infrastructure on federal
67 property. In addition to Executive Order 13616, in March 2015, the President signed a
68 Presidential Memorandum, "Expanding Broadband Deployment and Adoption by Addressing
69 Regulatory Barriers and Encouraging Investment and Training." The Memorandum created the
70 Broadband Opportunity Council and tasked it to produce specific recommendations to increase
71 broadband deployment, competition and adoption through executive actions within the scope
72 of existing agency programs, missions and budgets. The efforts of the Working Group align with
73 those of the Broadband Opportunity Council. Federal department and agency members of
74 these collaborative groups remain committed to doing everything within their resources to
75 support increased broadband deployment, adoption, and expanded use, especially within rural
76 and underserved communities. This Program Comment furthers those efforts as well.

77
78 In conjunction with several federal departments and agencies, DHS initially proposed
79 development of this program alternative in the form of a Standard Treatment. After review of
80 the proposed Standard Treatment and a refinement of the objectives it was designed to
81 achieve, it became clear that its intended purposes and benefits could not be accomplished
82 with a Standard Treatment, which cannot alter the Section 106 review process. It was agreed
83 that the Program Comment would be a better tool and would have the flexibility that the
84 LMAs/PMAs were pursuing.

85
86 For instance, some of the critical efficiency benefits sought by the LMAs/PMA's would involve
87 establishing limits to the areas of potential effects; setting limits to the level of effort needed to
88 identify historic properties; and providing various review exemptions. These would all be
89 alterations to the normal Section 106 process. Standard Treatments could provide a series of
90 "best practices" that, if followed, should result in findings of no effect or no adverse effect.
91 Nonetheless, use of this tool would require the agencies to comply with Section 106 on an
92 individual basis.

93
94 The development of a Program Comment presents a change in the type of program alternative
95 that was initially sought. However, the content, terms, and provisions of the eventual Program
96 Comment are expected to be substantively similar to those initially proposed as a Standard
97 Treatment, but offer the flexibility that was sought by the agencies.

98
99 **II. Applicability**

100
101 This Program Comment shall initially apply to undertakings relating to the deployment of
102 telecommunications infrastructure that are carried out, permitted, licensed, funded, owned or
103 otherwise assisted by DHS; the U.S. Department of Agriculture (USDA), U.S. Forest Service
104 (USFS), and Rural Utilities Service (RUS); and the Department of the Interior (DOI), Bureau of
105 Land Management (BLM), Bureau of Indian Affairs (BIA), Department of Commerce, and the
106 National Park Service (NPS). Other federal departments and agencies may utilize the process in
107 this Program Comment to satisfy their Section 106 responsibilities for the deployment of
108 telecommunications infrastructure after written notification of such intent is submitted to the
109 ACHP and the above LMAs and PMAs.

110
111 A Federal LMA or PMA may have an existing procedure in place, such as an agreement with a
112 SHPO or THPO to expedite consultation, or a program alternative developed pursuant to 36 CFR
113 § 800.14 that addresses agency compliance with Section 106 for certain undertakings including
114 telecommunications deployment projects. If such procedures exist, they may be used as
115 appropriate in place of this Program Comment.

116
117 This Program Comment is not applicable to undertakings proposed to be carried out, permitted,
118 licensed, funded, owned, or otherwise assisted by any federal department or agency that would
119 occur on or affect the following federally owned lands: National Monuments, National
120 Memorials, National Historical Parks, National Historic Trails, National Historic Sites, National
121 Military Parks, and National Battlefields. Should federal agencies or applicants want to deploy
122 telecommunications facilities that will affect these properties, the responsible federal agency
123 must follow the standard Section 106 process (or other applicable Program Alternative) for
124 review of such undertakings in consultation with the applicant, SHPO/THPO, Indian tribes,
125 NHOs, and other consulting parties.

126
127 This Program Comment is not applicable to undertakings proposed to be carried out, licensed,
128 permitted, or assisted by any federal department or agency that would occur on or affect

129 historic properties located on tribal lands without the prior, written agreement of that Indian
130 tribe. Tribal lands are defined in 36 CFR § 800.16(x) as including “all lands within the exterior
131 boundaries of any Indian reservation and all dependent Indian communities.”

132

133 **III. Definition of terms**

134

135 A. Antenna – An apparatus designed for the purpose of emitting radio frequency radiation,
136 to be operated or operating from a fixed location, for the transmission of writing, signs,
137 signals, data, images, pictures, and sounds of all kinds, including the transmitting device
138 and any on-site equipment, switches, wiring, cabling, power sources, shelters or
139 cabinets associated with that antenna and added to a tower, structure, or building as
140 part of the original installation of the antenna (Nationwide Programmatic Agreement
141 for the Collocation of Wireless Antennas, March 2001).

142

143 B. Applicant – The party submitting an application for telecommunications permitting,
144 licensing, or lease on federally managed lands or federally managed property.

145

146 C. Area of Potential Effects (APE) – The geographic area or areas within which an
147 undertaking may directly or indirectly cause alterations in the character or use of
148 historic properties, if any such properties exist. The APE is influenced by the scale and
149 nature of an undertaking and may be different for different kinds of effects caused by
150 the undertaking (36 CFR § 800.16(d)).

151

152 D. Collocation –The mounting or installation of an antenna on an existing tower, building
153 or structure for the purpose of transmitting and/or receiving radio frequency signals for
154 communications purposes (Nationwide Programmatic Agreement for the Collocation of
155 Wireless Towers, March 2001). For the purposes of this Program Comment, collocation
156 includes the mounting of communications equipment on a building or structure where
157 none had previously existed.

158

159 E. Consulting Parties – The parties with whom federal agencies consult in the Section 106
160 process. Consulting parties “by right” are those parties a federal agency must invite to
161 consult and include the ACHP, SHPO, THPO, Indian Tribes, including Alaska Native
162 Entities, and NHOs; representatives of local governments; and applicants for Federal
163 assistance, permits, license and other approvals. “Certain individuals and organizations
164 with a demonstrated interest in the undertaking” may also participate as consulting
165 parties “due to their legal or economic relation to the undertaking or affected
166 properties, or their concern with the undertaking’s effects on historic properties” (36
167 CFR § 800.2 (c)).

168

169 F. Effect and Adverse Effect – “Effect means alteration to the characteristics of a historic
170 property qualifying it for inclusion in or eligibility for the National Register [National
171 Register of Historic Places]” (36 CFR §800.16(i)). “An adverse effect is found when an
172 undertaking may alter, directly or indirectly, any of the characteristics of a historic

173 property that qualify the property for inclusion in the National Register in a manner that
174 would diminish the integrity of the property's location, design, setting, materials,
175 workmanship, feeling, or association” (36 CFR § 800.5(a)(1)).

176
177 G. Facility – An improvement or structure, whether existing or planned, that is or would be
178 owned and controlled by the grantee or lease holder within a ROW. For purposes of
179 communication site ROWs or uses, facility means the secured area including the
180 building, tower, and related incidental structures or improvements authorized under
181 the terms of the grant or lease (43 CFR § 2800).

182
183 H. Ground Disturbance – For the purposes of this Program Comment, any activity that
184 moves, compacts, alters, displaces, or penetrates the ground surface of previously
185 undisturbed soils. “Undisturbed soils” refers to soils that possess significant intact and
186 distinct natural soil horizons. Previously undisturbed soils may occur below the depth of
187 disturbed soils.

188
189 I. Historic Property – Any prehistoric or historic district, site, building, structure, or object
190 included in, or determined eligible for inclusion on, the National Register maintained by
191 the Secretary of the Interior. This term includes artifacts, records, and remains that are
192 related to and located within such properties. The term includes traditional cultural
193 properties (TCPs) and properties of traditional religious and cultural importance to an
194 Indian tribe, Alaska Native Entity or Native Hawai’ian Organization that meet the
195 National Register criteria (36 CFR § 800.16(l)(1)).

196
197 J. Indian tribe – An Indian tribe, band, nation, or other organized group or community,
198 which is recognized as eligible for the special programs and services provided by the
199 United States to Indians because of their status as Indians. It includes an Alaskan native
200 village, regional corporation or village corporation, as those terms are defined in section
201 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602) (henceforth: “Alaska
202 Native Entities”).

203
204 K. Pole – A pole is a non-tower structure that can hold utility, telecommunications, and
205 related transmission lines and is owned or controlled by a utility company (as defined in
206 Section 224(a)(1) of the Communications Act) or by a cooperatively-owned entity or by
207 a municipal or other governmental agency.

208
209 L. Right of Way (ROW) – An easement, lease, permit, or license to occupy, use, or traverse
210 public lands (Federal Land Policy and Management Act of 1976, As Amended 2001, Title
211 V). For the purposes of this Program Comment, ROW may include a construction,
212 maintenance, road, railroad, or utility ROW.

213
214 M. Records Check – For purposes of this Program Comment, a “Records Check” means
215 searching SHPO/THPO, tribal, and relevant federal agency files, records, and databases,
216 or other publicly available sources identified by the SHPO/THPO, for the following types

217 of information: Properties listed on the National Register; Properties formally
218 determined eligible for listing by the Keeper of the National Register; Properties that the
219 SHPO/THPO certifies are in the process of being nominated to the National Register;
220 Properties previously determined eligible as part of a consensus determination of
221 eligibility between the SHPO/THPO and a federal agency or local government
222 representing the Department of Housing and Urban Development (HUD); and Properties
223 listed and identified in the SHPO/THPO Inventory that the SHPO/THPO has previously
224 evaluated and found to meet the National Register criteria.

225
226 N. Staging Area – For the purposes of this Program Comment, a staging area is an area
227 designated for short term use, not to exceed the duration of the project, and is often
228 used for storing and assembling building materials equipment, and machinery, and for
229 parking vehicles temporary mobile offices, and staging area entrance/exit.

230
231 O. Substantial Increase in Size occurs when there is an existing antenna on a tower and:

- 232
233 1. Mounting of the proposed additional or replacement antenna would result in an
234 increase of the existing height of the tower by more than 10%, or by the height
235 of one additional antenna array with separation from the nearest existing
236 antenna not to exceed twenty feet, whichever is greater, except that the
237 mounting of the proposed antenna may exceed the size limits set forth in this
238 paragraph if necessary to avoid interference with existing antennas; or
239
- 240
241 2. Mounting of the proposed additional or replacement antenna would involve the
242 installation of more than the standard number of new equipment cabinets for
243 the technology involved (not to exceed four), or more than one new equipment
244 shelter; or
- 245
246 3. Mounting of the proposed additional or replacement antenna would involve
247 adding an appurtenance to the body of the tower that would protrude from the
248 edge of the tower more than 20 feet, or more than the width of the tower
249 structure at the level of the appurtenance (whichever is greater), except that the
250 mounting of the proposed antenna may exceed the size limits set forth in this
251 paragraph if necessary to shelter the antenna from inclement weather or to
252 connect the antenna to the tower via cable (Nationwide Programmatic
253 Agreement for the Collocation of Wireless Antennas, March 2001).

254 P. Native Hawai'ian organizations - Defined as "any organization which serves or
255 represents the interests of Native Hawai'ians; has as a primary and stated purpose the
256 provision of services to Native Hawai'ians; and has demonstrated expertise in aspects
257 of historic preservation that are significant to Native Hawai'ians" (36 CFR §
258 800.16(s)(1)). "Native Hawai'ian" means any "individual who is a descendant of the
259 aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area
260 that now constitutes the State of Hawai'i (36 CFR § 800.16(s)(2)).

261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302

- Q. State Historic Preservation Officer (SHPO) – The official appointed or designated pursuant to Section 101(b)(1) of the act to administer the State historic preservation program or a designated representative.
- R. Tribal Historic Preservation Officer (THPO) – The tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance who has assumed the responsibilities of the SHPO for purposes of section 106 compliance on tribal lands in accordance with Section 101(d)(2) of the act.
- P. Tower – Any structure built for the sole or primary purpose of supporting 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 (Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission, September 2004).

IV. Roles and responsibilities

- A. The Federal LMAs and PMAs shall:
 - 1. Consult with the SHPO/THPO to confirm the APE for each individual undertaking and provide notification of intent to follow this Program Comment.
 - 2. Make a reasonable and good faith effort for all proposed undertakings to identify known eligible or listed historic properties within the APE that may be affected by the proposed telecommunications undertakings by completing a Records Check. The Federal LMA/PMA will request and consider comments in writing from the SHPO/THPO on project-specific exemptions due to low probability for historic properties.
 - 3. Will notify consulting parties that an undertaking will be exempt from new field survey, and concluding Section 106 and allowing the undertaking to proceed, for any undertaking that is proposed to occur within APEs:
 - i. previously field surveyed (acceptable to current standards) that resulted in a no effect or no historic properties present determination by the federal agency through consultation with the SHPOs/THPOs and Consulting Parties;
 - ii. in an APE or portion thereof that has been previously disturbed to the extent and depth where the probability of finding intact historic

303 properties within is negligible, and there are no anticipated indirect
304 effects to previously known historic properties; and/or

305 iii. considered to have a low probability for historic properties.
306

- 307
- 308 4. Address any objections from the SHPO/THPO or other consulting parties
309 regarding potential effects on an identified historic property during consultation
310 by following the process in 800.4(d)(1)(ii) or 800.5(c)(1).
311
 - 312 5. Use existing agency procedures for implementation of this Program Comment
313 which may include procedures for delegation of authority, as appropriate.
314
 - 315 6. Determine the need for, and initiate the development of, a standard inadvertent
316 discovery plan and consult with Consulting Parties, as appropriate. The Federal
317 LMA/PMA is encouraged to create a standard inadvertent discovery plan
318 consistent with ACHP guidance for projects within the scope of this Program
319 Comment with Consulting Parties, if none currently exists. The LMA/PMA shall
320 provide a copy of this inadvertent discovery plan to the applicant.
321
 - 322 7. Use qualified professionals for the disciplines under review in accordance with
323 Section 110 of the NHPA and the Secretary of the Interior's Historic Preservation
324 Qualification Standards (62 FR 33708-33723).
325
 - 326 8. Document use of this Program Comment in the Section 106 review for the
327 undertaking's administrative record.
328

329 B. The Applicant, on behalf of the Federal LMA/PMA, shall:
330

- 331 1. Notify the Federal LMA/PMA of its proposed application or request for
332 assistance at the earliest possible opportunity in project planning.
333
- 334 2. Carry-out and comply with the procedures for any delegation of authority as
335 established by the LMA/PMA.
336
- 337 3. Assist the Federal LMA/PMA to determine the APE in consultation with the
338 SHPO/THPO.
339
- 340 4. Conduct a Records Check to identify known historic properties within the APE,
341 when requested by the Federal LMA/PMA.
342
- 343 5. Notify the Federal LMA/PMA if the undertaking is not located within or
344 immediately adjacent to a known historic property.
345

- 346 6. Document the recommended determination of effect to historic properties for
347 and subject to the Federal LMA/PMA's approval when requested by the Federal
348 LMA/PMA.
349
350 7. For known historic properties within the APE that will not be adversely affected
351 because they can be avoided or their significant characteristics will not be
352 affected, ensure the site avoidance plan has been approved by the LMA/PMA
353 and SHPO/THPO, avoidance areas are clearly marked during staging and
354 construction activities, and that construction crews are properly notified.
355
356 8. If potential historic properties are discovered after construction has begun or
357 unanticipated effects occur to known historic properties, stop work in the
358 immediate area according to 800.13 and the guidelines in the inadvertent
359 discovery plan which includes notifying the Federal LMA/PMA before the
360 inadvertent discovery plan is implemented.
361

362
363 **V. Project planning considerations**
364

- 365 A. The Applicant shall coordinate early with the Federal LMA/PMA regarding project planning
366 activities.
367
368 B. Noninvasive techniques are encouraged where feasible for geotechnical testing. However,
369 pursuant to 36 CFR § 800.1(c), limited geotechnical boring or coring is permitted prior to
370 initiation of Section 106 in order to characterize the soils so long as the testing does not
371 take place within the boundaries of a known historic property or in an area with a known
372 high probability of containing historic properties. Should the boring or coring bring up
373 artifacts, the inadvertent discovery plan shall be implemented.
374
375 C. Siting projects in previously disturbed areas is encouraged.
376

377 **VI. Collocation of telecommunications antennas**
378

- 379 A. A Federal LMA/PMA may elect to use applicable exclusions established in the
380 Nationwide Programmatic Agreement for the Collocation of Wireless Antennas,
381 executed by the Federal Communications Commission, the National Conference of State
382 Historic Preservation Officers and the ACHP, as amended, August 2016.
383
384 B. A tower collocation is presumptively determined to have no adverse effect so long as:
385
386 1. It will not result in a substantial increase¹ in size of the existing tower; and

¹ Refer to Definition of Terms for substantial increase in size for the purposes of this Program Comment.

387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427

2. There are no Section 106 requirements in an existing special use permit, easement, or communications use lease for that site.

C. Collocations on non-tower structures on federal land are programmatically determined to have no adverse effect so long as one of the following items or conditions apply for the undertaking:

1. The structure is less than 45 years old; or
2. If over 45 years old, the structure has been previously evaluated and determined not eligible for listing on the NRHP; and
 - i. The structure is not adjacent to or within the boundary of a NRHP-listed or previously determined eligible historic district; and
 - ii. The structure is not designated as a National Historic Landmark or State Historic Landmark.

VII. Telecommunications above-ground connections to and collocations on federal buildings and buildings located on federal land

- A. A Federal LMA/PMA may elect to use applicable exclusions established in the 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 ACHP, as amended, August 2016, for collocations that involve federal buildings and buildings located on federal lands.
- B. Telecommunications connections to buildings that have been determined not eligible for listing on the NRHP via a previous Section 106 consultation are presumptively determined to be actions that have no effect on historic properties.
- C. Telecommunications connections to and collocations on buildings listed in or eligible for listing on the NRHP are presumptively determined to have no adverse effect on historic properties, so long as:
 1. All construction complies with the Secretary of Interior’s Standards for Rehabilitation, especially when a new building entry is required because no entry points exist;

- 428 2. Telecommunications connections and collocations are placed on buildings
429 behind parapets or the roof's edge in such a manner so that the connections and
430 collocations are not visible from ground level; and
431
432 i. Existing telecommunications or utility entry points and infrastructure are
433 used to the greatest extent feasible, in and on the historic building; or
434
435 ii. If existing telecommunications or utility entry points and infrastructure
436 cannot be used for the subject collocation, any additional entry points
437 and infrastructure required in or on the historic building are located
438 directly adjacent to and are of similar size as the existing connections and
439 entry points, and are installed in such a way as to minimize harm to
440 historic materials.
441
442

443 **VIII. Placement of above-ground telecommunications and cable lines on existing poles or**
444 **structures**
445

- 446 A. The placement of above-ground telecommunications and cable lines on existing poles
447 and structures is presumptively determined to have no effect on historic properties, as
448 long as:
449
450 1. No new structures or poles need to be added to accommodate the new lines;
451 and
452
453 2. The structure or pole is not a historic property and does not contribute to the
454 significance of an historic district.
455
456 B. When replacement of structures or poles is planned, the undertaking is presumptively
457 determined to have no adverse effect, as long as:
458
459 1. The replacement structures or poles can be located within the same hole as the
460 original structure and there is no new ground disturbance outside of previously
461 disturbed areas associated with temporary support of the lines;
462
463 2. The replacement structures or poles are within an existing ROW or easement
464 which either has been surveyed;
465
466 3. The replacement structures or poles are of generally consistent quality and
467 appearance with the originals;
468
469 4. Any proposed height increase of the replacement structures or poles is no more
470 than 10% of the height of the originals; and
471

- 472 5. The original pole or structure is not a historic property and does not contribute
473 to a historic district.
474
- 475 C. When infill structures or poles need to be added along an extant line, the undertaking is
476 presumptively determined to have no adverse effect, as long as:
477
- 478 1. The addition of new structures or poles within existing ROWs or corridors is not
479 proposed within the boundary of a known historic property as identified by the
480 Federal LMA/PMA; and
481
- 482 2. The additional structures or pole(s) are 100 feet or more, as defined by the
483 LMA/PMA site avoidance standards, whichever is greater, beyond the boundary
484 of any National Register listed or previously determined eligible historic districts
485 significant for their visual setting; and
486
- 487 3. Compliance with the provisions of any relevant existing Section 106 agreement
488 documents is achieved; and
489
- 490 4. The additions are of generally consistent quality and appearance with the
491 originals; and
492
- 493 5. The height of any added structure or pole is no greater than 10% taller than the
494 height of the originals.
495

496
497 **IX. Installation of buried telecommunications cable on federally managed lands**
498

- 499 A. The APE for installation of buried cable will be the width of the construction ROW plus
500 any areas for staging or access.
501
- 502 B. The installation and maintenance of new or replacement telecommunications cable and
503 new or replacement associated vaults for cable access along previously disturbed areas
504 within existing road, railroad, and utility ROWs is presumptively assumed to have no
505 adverse effect on historic properties (if present) so long as there are no known historic
506 properties within the ROW APE.
507
- 508 C. The installation of new or replacement vaults for cable access that are outside of
509 existing road, railroad, and utility ROWs but are located in previously disturbed or
510 developed land, is presumptively determined to have no adverse effect to historic
511 properties so long as:
512
- 513 1. There are no known historic properties within the APE,
514
- 515 **2. and**

516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558

3. The new or replacement vaults are buried in areas with highly disturbed environments.

D. The installation of new or replacement buried telecommunication connections from road, railroad, and utility ROWs or vaults to a facility is an undertaking that is presumptively determined to have no adverse effect, so long as:

1. There are no known historic properties within the APE;
2. The new or replacement telecommunication connections are buried in previously developed, existing rights-of-way up to the existing facility or building or to an overhead line that connects to the facility or building; and
3. The facility and route to it are located in a disturbed APE.

E. If the road, railroad, and/or utility ROW, or nearby previously disturbed area, or the area from the ROW to the individual user includes a known archeological site(s) the undertaking is presumptively determined to have no adverse effect, so long as the depth and extent of the property's intact and undisturbed deposits within the APE can be predicted with relative certainty such that the cable can be directionally bored below the site(s).

X. Telecommunications tower replacement

A. For the purposes of this Program Comment and this section, the APE for direct effects for a tower, compound, and associated construction is the area of potential ground disturbance and any property, or any portion thereof that will be physically altered or destroyed by the undertaking.

B. For the purposes of this section, the APE for indirect visual effects is the geographic area in which the undertaking has the potential to introduce visual elements that diminish or alter the integrity, including the landscape.

1. Unless otherwise established, or previously established through consultation and agreement between the Federal LMA/PMA and SHPO/THPO, the presumed APE for visual effects for construction of new facilities or structures is the area from which the Tower will be visible:

- a. Within a .5 mile radius from the tower site if the proposed Tower is 200 feet or less in overall height;

559 b. Within .75 mile radius from the tower site if the proposed Tower
560 is more than 200 but no more than 400 feet in overall height; or

561
562 c. Within 1.5 mile radius from the proposed tower site if the proposed
563 Tower is more than 400 feet in overall height.

564
565 2. These distances are a guideline that can be altered based on an otherwise
566 established agreement and on individual circumstances addressed during
567 consultation with the SHPO/THPO and Consulting Parties that results in the
568 reduction or expansion of the APE, as applicable.

569
570 C. Replacement of a tower within an existing facility boundary that has previously been
571 reviewed pursuant to Section 106, and mitigated as necessary, is presumptively
572 determined to have no adverse effect to historic properties so long as:

573
574 1. The proposed replacement tower does not represent a substantial increase² in
575 size relative to the existing tower; and

576
577 2. The installation of the proposed replacement tower does not involve ground
578 disturbance outside the facility's boundary.

579
580

581 **XI. New telecommunications tower construction**

582
583 A. The direct APE for a tower, compound, and associated construction (staging area, access
584 roads, utility lines, etc.) is the area of potential ground disturbance and any property, or
585 any portion thereof, which would be physically altered or destroyed by the undertaking.

586
587 B. For the purposes of this Program Comment and this section, the indirect APE for visual
588 effects is the geographic area in which the undertaking has the potential to introduce
589 visual elements that diminish or alter the integrity of a historic property, including the
590 landscape.

591
592 1. Unless otherwise established, or previously established through consultation and
593 agreement between the Federal LMA/PMA and SHPO/THPO, the presumed APE
594 for visual effects for construction of a new Tower is the area from which the
595 Tower will be visible:

596
597 a. Within a .5 mile radius from the tower site if the proposed Tower is 200
598 feet or less in overall height;

599

² Refer to Definition of Terms for substantial increase in size for the purposes of this Program Comment.

600 b. Within .75 mile radius from the tower site if the proposed Tower
601 is more than 200 but no more than 400 feet in overall height; or

602
603 c. Within 1.5 mile radius from the proposed tower site if the proposed
604 Tower is more than 400 feet in overall height.

605
606 2. These distances are a guideline that can be altered based on an otherwise
607 established agreement or following consultation with SHPO/THPO and other
608 Consulting Parties that results in the reduction or expansion of the APE, as
609 applicable.

610
611 C. For the purposes of this Program Comment and this section, new tower construction
612 within an existing telecommunications compound that has previously been reviewed
613 pursuant to Section 106, and would avoid any identified historic properties within the
614 compound, is presumptively determined to have no adverse effect so long as the
615 proposed new tower is not substantially larger in size³ than the largest preexisting tower
616 within the existing telecommunications compound boundary.

617
618

619 **XII. Effective date**

620
621 This Program Comment shall go into effect on March 1, 2017.

622
623

624 **XIII. Reporting**

625
626 LMAs/PMAs will submit an annual report to the ACHP, NCSHPs, and NATHPO summarizing all
627 project activities carried out under the terms of this Program Comment. The annual report will
628 document how the deployment of broadband has improved telecommunication services in
629 areas of the State(s) served by LMAs and PMAs. The reports will be due by November 1st of
630 each year and can use information prepared for the Broadband Opportunity Council or other
631 agencies monitoring the expansion of telecommunications infrastructure.

632
633 **XIV. Amendments**

634
635 The ACHP may amend this Program Comment after consulting with the DHS, other federal
636 agencies, NCSHPO, NTHPO and Industry, as appropriate. The ACHP also will publish a notice in
637 the Federal Register to inform the public of any revisions that have been made.

638
639 Any other federal agency may utilize the process in this Program Comment to satisfy its Section
640 106 responsibilities for the deployment of telecommunications infrastructure after written

³ Refer to Definition of Terms for substantial increase in size for the purposes of this Program Comment.

641 notification of such intent is received by the ACHP. No amendment to this Program Comment
642 would be needed for this action.

643

644

645 **XV. Sunset Clause**

646

647 This Program Comment will expire on DATE, unless it is amended to extend the period in which
648 it is in effect.

649

650

651 **XVI. Termination**

652

653 The ACHP may terminate this Program Comment, pursuant to 36 CFR § 800.14(e)(6), by
654 publication of a notice in the Federal Register thirty (30) days before the termination takes
655 effect.

656

657

DRAFT