



**FEMA**

September 24, 2009

Honorable John Nau, III  
Chairman  
Advisory Council on Historic Preservation  
1100 Pennsylvania Avenue, NW  
Suite 803  
Washington, DC 20004

Dear Chairman Nau:

I am writing in response to the Advisory Council on Historic Preservation's (ACHP) *Draft Program Comment for the National Telecommunications and Information Administration (NTIA) and the U.S. Department of Agriculture's Rural Utilities Service (RUS) Regarding the Effects of Communication Facilities Construction or Modification Subject to Review by the Federal Communications Commission (FCC)*, which was published in the Federal Register on September 17, 2009.

The ACHP is considering issuing a Program Comment to NTIA and RUS that would streamline the National Historic Preservation Act (NHPA) Section 106 review responsibilities of both agencies. This Program Comment would relieve them of the need to conduct a separate Section 106 review regarding the effects of projects involving the construction and modification of telecommunication facilities that will be subject to such review by the FCC. Many of the telecommunication facilities funded by RUS and NTIA are also regulated by the FCC, and therefore undergo Section 106 review under the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the FCC (FCC Nationwide PA) or the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (FCC Collocation PA). Like RUS and NTIA, the Federal Emergency Management Agency (FEMA) is concerned about the duplication of Section 106 reviews between FCC and the Federal agency providing financial/grant assistance for the implementation of telecommunication facility projects.

The Grant Programs Directorate (GPD) within FEMA is responsible for administering 19 preparedness grant programs that provide funding to States, Territories, tribal and local governments, non-profit and private entities. These funds are used to measurably improve capability and reduce the risks the Nation faces in times of man-made and natural disasters. These funds are used for planning, training, organization, exercise, equipment, and management and administration costs. The grant programs funded under GPD implement objectives addressed in legislation, the National Preparedness Guidelines and various Homeland Security Presidential Directives enacted following the terrorist attacks of September 11, 2001. An eligible activity funded under GPD is the installation of new or modification of telecommunication towers. GPD also funds the collocation of antennas and repeaters on existing towers or non-tower structures to ensure interoperable communication between first responders during man-made and natural disasters.

Although telecommunication facility projects are funded most frequently under the GPD grant programs, this project type may also be eligible under some of FEMA's other grant programs.

As FEMA-funded activities, these tower construction, modification and collocation projects trigger

compliance requirements under NHPA, the National Environmental Policy Act (NEPA), and other Federal environmental and historic preservation laws. These tower projects typically require a license from the FCC; grantees must also ensure that the proposed projects satisfy FCC's NHPA and NEPA compliance requirements.

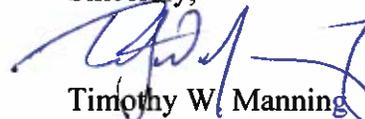
Grantees must satisfy the Section 106 review for both FEMA and FCC purposes. Thus FCC Section 106 requirements, in most cases, have been fulfilled for these projects prior to their submission to FEMA. Requiring grantees to satisfy both agencies' Section 106 reviews creates a redundant level of effort that places an undue administrative burden upon our grantees, State Historic Preservation Officers (SHPO) and Tribal Historic Preservation Officers (THPO). The result is an unnecessary delay for the grantee in receiving approval to proceed with their homeland security/emergency preparedness initiatives. In addition the requirements provide no additional value to the consideration of historic properties in keeping with the spirit and intent of Section 106.

Under the ACHP's proposed Program Comment, RUS and NTIA will not need to comply with Section 106 with regard to the effects of a telecommunication facility construction, modification or collocation that has undergone or will undergo Section 106 review by the FCC under the FCC Nationwide PA or the FCC Collocation PA. FEMA requests that the ACHP include FEMA in this Program Comment as well, to similarly streamline the agency's Section 106 review responsibilities for telecommunication facility projects.

FEMA takes its historic preservation compliance responsibilities seriously, and we are committed to working together with the ACHP, SHPO, THPO, Indian Tribes, and other consulting parties to ensure that efficient processes and protocols are developed to satisfy our legal obligations while continuing to strengthen homeland security and emergency preparedness.

Thank you for your prompt consideration of FEMA's request for inclusion in the ACHP's Program Comment. Please direct any questions to John Ketchum, Federal Preservation Officer, at (202) 646-3271 or [john.ketchum@dhs.gov](mailto:john.ketchum@dhs.gov).

Sincerely,



Timothy W. Manning  
Deputy Administrator, National Preparedness

cc: Blythe Semmer, Office of Federal Agency Programs, ACHP  
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John Ketchum, Federal Preservation Officer, FEMA