

# Advisory Council On Historic Preservation

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The Old Post Office Building  
1100 Pennsylvania Avenue, NW, #809  
Washington, DC 20004

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September 21, 2000

## MEMORANDUM

TO: Federal Communications Commission  
State Historic Preservation Officers (SHPOs)  
Tribal Historic Preservation Officers (THPOs)

From: Executive Director

Subject: Delegation of Authority for the Section 106 Review of Telecommunications  
Projects

As a result of ongoing discussions with the Federal Communications Commission (FCC) and other stakeholders involved in the coordination and implementation of telecommunications projects, the Council has determined that it is consistent with 36 CFR Section 800.2(c)(5) of our regulations, "Protection of Historic Properties" (36 CFR Part 800), for licensees, applicants, and their authorized representatives<sup>1</sup> to act on behalf of FCC when complying with certain provisions of our regulations. Accordingly, effective immediately, applicants, licensees, tower construction companies, and their authorized representatives may consult with the State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs) to initiate the Section 106 review process; identify and evaluate historic properties; and assess effects. FCC, however, will remain responsible for participating in the consultation process when:

- it is determined that the *Criteria of Adverse Effect* apply to an undertaking;
- there is a disagreement between the licensee, applicant, tower construction company, or their authorized representatives and the SHPO/THPO regarding identification and evaluation, and/or assessment of effects;
- there is an objection from consulting parties or the public regarding findings and determinations, the implementation of agreed upon provisions, or their

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<sup>1</sup>When consulting with SHPOs/THPOs, authorized representatives of applicants, licensees and tower construction companies should identify the organization they are representing, including an appropriate contact person within the organization, and the undertaking for which they have been hired to coordinate the Section 106 review.

- involvement in a Section 106 review; or,  
there is the potential for a foreclosure situation or anticipatory demolition as specified in Section 110(k) of the National Historic Preservation Act.

In accordance with 36 CFR Section 800.2(c)(3), FCC shall ensure that all consultations with Indian Tribes are conducted in a sensitive manner respectful of tribal sovereignty and the government to government relationship between the Federal government and Indian Tribes. This Memorandum, therefore, is not intended to modify or limit such requirements nor mandate that Indian Tribes consult with licensees and applicants or provide information if the Indian Tribes conclude that consultation should be directly with FCC.

It, therefore, is important that Section 106 reviews be conducted within the time frames set forth within 36 CFR Part 800, and that the exchange of documentation and consultations between the consulting parties be carried out in a consistent and predictable manner. To this end, FCC should coordinate with the telecommunications industry to carry out the process set forth in this Memorandum.



John M. Fowler