

SUPPORTING STATEMENT

Introduction: The Commission seeks an extension of this information collection from the Office of Management and Budget (OMB) for a period of three years.

A. Justification:

1. On August 3, 2016, the Federal Communications Commission (FCC or Commission), the Advisory Council on Historic Preservation (Council or ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) executed the *First Amendment to Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (First Amendment) to address the review of deployments of small wireless antennas and associated equipment under Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108 (formerly codified at 16 U.S.C. 470f). The FCC, the Council, and NCSHPO agreed to amend the *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (Collocation Agreement) to account for the limited potential of small wireless antennas and associated equipment, including Distributed Antenna Systems (DAS) and small cell facilities, to affect historic properties. The First Amendment to the Collocation Agreement amends the Collocation Agreement, which is codified at 47 CFR, part 1, Appendix B.

To fulfill its responsibilities under the NHPA, the Commission incorporated the requirements of Section 106 of the NHPA into its environmental rules. Section 1.1307(a)(4) of the Commission's rules directs licensees and applicants to follow the procedures set forth in the ACHP's rules, as modified by two programmatic agreements executed by the Commission with ACHP and NCSHPO, in order to determine whether certain undertakings will affect historic properties.¹ One of these agreements, the Collocation Agreement, addresses historic preservation review for collocations on existing towers, buildings, and other non-tower structures. Under the Collocation Agreement, most antenna collocations on existing structures are excluded from Section 106 historic preservation review, with a few exceptions defined to address potentially problematic situations.

In the October 2014 *Infrastructure Report and Order*, the Commission recognized that small deployments like DAS and small cells use components that are a fraction of the size of traditional cell tower deployments and can often be installed on utility poles, buildings, and other existing structures with limited or no potential to cause adverse effects on historic properties. Accordingly, the Commission eliminated some routine Section 106 reviews, and stated that there is room for additional improvement in this area.

The Commission's Wireless Telecommunications Bureau (Bureau) commenced a proceeding in 2015, to amend the Collocation Agreement to facilitate the review process for

¹ 47 CFR § 1.1307(a)(4).

deployments of small wireless communications facilities under Section 106 of the NHPA. On August 3, 2016, the Bureau, ACHP, and NCSHPO finalized and executed the First Amendment to the Collocation Agreement, to tailor the Section 106 process for small wireless deployments by excluding deployments that have minimal potential for adverse effects on historic properties.

Stipulation VII.C of the amended Collocation Agreement provides that proposals to mount a small antenna on a traffic control structure (*i.e.*, traffic light) or on a light pole, lamp post or other structure whose primary purpose is to provide public lighting, where the structure is located inside or within 250 feet of the boundary of a historic district, are generally subject to review through the Section 106 process. These proposed collocations will be excluded from such review on a case-by-case basis, if (1) the collocation licensee or the owner of the structure has not received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties; and (2) the structure is not historic (not a designated National Historic Landmark or a property listed in or eligible for listing in the National Register of Historic Places) or considered a contributing or compatible element within the historic district, under certain procedures. These procedures require that applicant must request in writing that the SHPO concur with the applicant's determination that the structure is not a contributing or compatible element within the historic district, and the applicant's written request must specify the traffic control structure, light pole, or lamp post on which the applicant proposes to collocate and explain why the structure is not a contributing element based on the age and type of structure, as well as other relevant factors. The SHPO has thirty days from its receipt of such written notice to inform the applicant whether it disagrees with the applicant's determination that the structure is not a contributing or compatible element within the historic district. If within the thirty-day period, the SHPO informs the applicant that the structure is a contributing element or compatible element within the historic district or that the applicant has not provided sufficient information for a determination, the applicant may not deploy its facilities on that structure without completing the Section 106 review process. If, within the thirty-day period, the SHPO either informs the applicant that the structure is not a contributing or compatible element within the historic district, or the SHPO fails to respond to the applicant within the thirty-day period, the applicant has no further Section 106 review obligations, provided that the collocation meets the certain volumetric and ground disturbance provisions.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this information collection is contained in sections 1, 2, 4(i), 7, 301, 303, 309, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 157, 301, 303, 309, 332, and Section 106 of the National Historic Preservation Act of 1966, 54 U.S.C. § 306108.

2. The information is used by third parties to comply with Stipulation VII.C of the First Amendment to the Collocation Agreement.
3. The use of information technology is feasible for the notification requirements in this situation. Whether, and to what extent, such information technology will be used will be for the applicable reviewing authority to decide.
4. This agency does not impose a similar information collection on the respondents. There are no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents, regardless of size. The Commission has limited the information requirements to those absolutely necessary for evaluating and processing each application and to deter against possible abuses of the processes. The Commission believes whatever burdens small entities may incur in choosing to follow the case-by-case process in Stipulation VII.C are warranted by the benefits of proceeding with the deployment of facilities under this exception to the NHPA Section 106 review process, which provides the applicant with access to a streamlined process to proceed with facilities deployment which can lead to the provision of wireless services, including 5G.
6. If the information in Stipulation VII.C is not collected, Section 106 review would be required for projects that would nevertheless be likely to have minimal and not adverse effects on historic properties, which would lessen opportunities to streamline the review process for some projects for wireless services and potentially delay the deployment of facilities for the provision of such services.
7. There are no special circumstances associated with this collection of information. The collection will be consistent with the guidelines in 5 C.F.R. § 1320.
8. The Commission initiated a 60-day public comment period which appeared in the *Federal Register* on January 30, 2020 (85 FR 5436) seeking comments from the public on the information collection requirements contained in this collection.

The United Keetoowah Band of Cherokee Indians in Oklahoma (Keetoowah) filed comments pursuant to this notice and request for comment.² The Keetoowah comments do not raise any issues or concerns association with the information collection that is contained in the Federal Register Notice. Instead, the Keetoowah comments allege substantive deficiencies about the underlying proceeding. The Keetoowah comments are therefore outside the scope of this Notice.

² Letter from Chief Joe Bunch, United Keetoowah Band of Cherokee Indians, to Marlene Dortch, Secretary, FCC, OMB 3060–1238 (filed Dec. 13, 2022).

9. Respondents will not receive any payments or gifts in connection with this collection.
10. The Commission is not requesting respondents to submit confidential information.
11. This collection does not address private matters or questions of a sensitive nature.
12. There are two parts to this collection. Part A covers the request from an applicant to a SHPO that the SHPO concur with the applicant's determination that the structure is not a contributing or compatible element within the historic district. Part B covers the response by the SHPO to the applicant's request, should the SHPO choose to make such a response.

Part A: Stipulation VII.C – Request by Applicant to SHPO

Total Number of Annual Respondents: 18

We estimate that there are approximately 90 wireless service providers across the country that could submit a request to SHPOs under Stipulation VII.C. We estimate that of this number, approximately 20 percent are likely to submit requests to SHPOs under this stipulation. Whether or not a filing will be made under this stipulation is up to an applicant.

$90 \text{ providers} \times 0.20 = 18 \text{ Annual Respondents.}$

Total Number of Annual Responses: 495

As explained above, we estimate that approximately 18 respondents will submit requests to SHPOs annually. We estimate that each of these respondents will submit approximately 25 requests to SHPOs. The number and frequency of responses will be determined by the applicant.

$18 \times 25 = 450$

We further estimate that approximately 10 % of these requests will require a second request with additional information.

$450 + (450 \times 0.1) = 495$

Total Annual Burden Hours: 124

We estimate that approximately 5% of the filing work will be handled in-house, and approximately 95% of the filing work will be contracted to a third-party consultant. We also estimate that each respondent will take approximately 5 hours to prepare and submit a

request, including second requests.

$495 \text{ Annual Responses} \times .05 \times 5 \text{ hours} = 124 \text{ Total Number of Burden Hours}$

Total Annual “In-House” Cost for Part A: \$4,216

As discussed above, we estimate that approximately 5% of the filing work will be handled in-house. We estimate that respondents will use in-house personnel comparable in pay to a mid to senior level federal employee to prepare the collection, and we estimate the cost to be about \$35 per hour for their portion of the work which we estimate to be approximately 95% of the in-house work. We estimate that respondents will also in-house use clerical staff to coordinate the contracting at approximately \$17 per hour which we estimate to be approximately 5% of the in-house work. We estimate a blended rate of \$34/hour.

$124 \text{ hours} \times \$34/\text{hour} = \$4,216$

Part B: Stipulation VII.C – Response by SHPO

Total Number of Annual Respondents: 53

We estimate that there are 59 SHPOs, or an equivalent entity, for states, territories and the District of Columbia. We estimate that approximately 90% of these SHPOs will receive a request under Stipulation VII.C.

$59 \text{ SHPOS} \times .9 = 53 \text{ Annual Respondents (rounded).}$

Total Number of Annual Responses: 270

As discussed in Part A, we estimate that approximately 450 requests will be made to SHPOs under Stipulation VII.C, and approximately 45 requests will be made by SHPOs for additional information as a part of the process. Once the additional information is received, the SHPO will act on 50% of those responses.

$450 \times 50\% + 45 = 270 \text{ Total Number of Annual Responses}$

Total Number of Annual Burden Hours: 2,745

There are four steps to estimate burden hours. We estimate that: 1) SHPOs will take approximately 5 hours to review each of the 450 initial requests; 2) SHPOs will request

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further information from approximately 45 applicants, which is approximately 10 percent of the 450 initial requests as discussed in Part A, and will take approximately 1 hour to do so; 3) SHPOs will take approximately 5 hours to review each of the responses (or second requests) from the applicants; and 4) SHPOs will take approximately 1 hour to inform each of 225 applicants, which is 50% of the 450 requests as discussed in Part A, that the structure is a contributing element or compatible element within the historic district, or informing the applicant that the structure is not a contributing element or compatible element within the historic district.

$(450 \text{ responses} \times 5 \text{ hrs./response}) + (45 \text{ responses} \times 1 \text{ hr./response}) + (45 \text{ responses} \times 5 \text{ hrs./response}) + (225 \text{ Responses} \times 1 \text{ hr./response}) = 2,745 \text{ Annual Burden Hours}$

Total Annual “In-House” Cost for Part B: \$69,833

We assume that the SHPO review will cost \$25.44 an hour.

$2,745 \text{ hours} \times \$25.44 = \$69,833$

Total Number of Annual Respondents for the entire collection: Part A (18) + Part B (53) = 71

Total Number of Annual Responses for the entire collection: Part A (495) + Part B (270) = 765

Total Number of Annual Burden Hours for the entire collection: Part A (124) + Part B (2,745) = 2,869

Total Annual “In-House” Cost for the entire collection: Part A (\$4,216) + Part B (\$69,833) = \$74,049

13. Part A: Stipulation VII.C – Request by Applicant to SHPO.

(a) Total Annualized Capital/Startup Cost: None

(b) The Commission estimates that 95% of the filing work will be contracted to a third party, such as a Planning Professional; Management, Scientific, and Technical Consulting Service, or Architectural, Engineering, and Related Service, at an estimated rate of \$35/hr. We estimate that these third parties will spend approximately 5 hours on each response.

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495 responses x .95 x 5 hours = 2,351 hours
2,351 hours x \$35 an hour = \$82,285

Total annual costs (O&M): \$82,285

(c) Total annualized cost requested: \$82,285

Part B: Stipulation VII.C – Response by SHPO.

(a) Total Annualized Capital/Startup Cost: None

(b) Total annual costs (O&M): None

(c) Total annualized cost requested: None

There will be no annualized costs incurred by the respondents from part B of the collection.

**Total Number of Annualized Capital/Startup Costs Requested for the entire collection:
Part A (\$0) + Part B (\$0) = \$0**

**Total Number of Annual Costs (O&M) Requested for the entire collection: Part A
(\$82,285) + Part B (\$0) = \$82,285**

**Total Number of Annualized Cost Requested for the entire collection: Part A (\$82,285) +
Part B (\$0) = \$82,285**

14. There are no costs to the Federal Government because all requests and any responses will be between parties outside of the government, i.e., applicants and SHPOs.
15. This is an extension of a currently approved collection. There are no program changes or adjustments to this collection.
16. The data will not be published for statistical use.
17. OMB approval of the expiration of the information collection will be displayed at 47 C.F.R. § 0.408.
18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

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No statistical methods are employed.