

Recent Past Preservation Network

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February 2, 2004

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC

RE: WT Docket No. 03-128, Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Process

Dear Ms. Dortch:

I am writing on behalf of the Recent Past Preservation Network (RPPN), an international, non-profit organization founded to promote the preservation of buildings from the recent past and to educate the public on the importance of buildings constructed since the end of the Second World War. Please enter this correspondence into the official record as a comment on the above programmatic agreement.

We are concerned that recent moves by the Federal Communications Commission (FCC) and Advisory Council on Historic Preservation (ACHP) to streamline National Historic Preservation Act (Section 106) compliance for broadcasters, public safety officials, and providers of personal wireless services will unduly endanger a significant class of historic properties. The current FCC rulemaking proceeding -- at the heart of which is the proposed *Nationwide Programmatic Agreement For Review Of Effects On Historic Properties For Certain Undertakings Approved By The Federal Communications Commission* -- proposes to exclude from Section 106 consultation and review the "Construction of a replacement for an existing communications tower."¹

By excluding existing communications tower from consultation under Section 106 of the National Historic Preservation Act, the FCC stands poised to endanger what in some cases may be the only tangible evidence of its regulatory oversight of the American communications industry. Towers built after the Second World War and in the wake of the historic review of the Radio Technical Planning Board and subsequent 1944 spectrum allocation hearings known as FCC Docket 6651 may be demolished without consideration being given to their National Register of Historic Places eligibility and without the development of mitigation options to resolve the adverse effects to these historic structures. As Docket 6651 fades further into the past, the artifacts it helped create will continue to disappear without viable ways to take into account the effects of FCC undertakings on these historic properties.

¹ *Nationwide Programmatic Agreement For Review Of Effects On Historic Properties For Certain Undertakings Approved By The Federal Communications Commission*, Stipulation III(A)(2), "Undertakings Excluded From Section 106 Review."

Many broadcast and telecommunications industry attorneys have lobbied the FCC to argue that tower siting and construction are not federal undertakings. Despite these disingenuous attempts to influence FCC policy, FCC licensing and permitting regulations – and the Commission’s own history – argue otherwise. The FCC has been in the tower regulation business since its earliest days in the 1930s. Although tower marking and lighting are actions reviewed by the Federal Aviation Administration (and its predecessor, the Aeronautics Branch of the U.S. Department of Commerce), the Commission’s own historical records show that the FCC has maintained significant oversight and regulatory control over tower siting and marking. When the FCC released its “Antenna Tower Marking” standards in the summer of 1937, it acknowledged that tower marking and lighting was in fact an area over which the Commission has jurisdiction. Shortly after the landmark decision to uniformly paint towers in measured and alternating bands of white and International Orange paint, communications towers began sporting their “new attire,” as the *Washington Post* called it, in September 1937.

Communications towers – like bridges, factories, windmills, and electricity transmission lines – are an important part of America’s industrial heritage. If the FCC and its applicants do not take into consideration the effects of their undertakings to this significant class of historic property, not only will historians, engineering buffs, and the American public lose a part of their heritage, the FCC will lose the physical manifestations of their historic and important rulemaking and licensing actions.

The Recent Past Preservation Network opposes the exclusion of existing communications towers from the FCC’s Section 106 compliance requirements. We suggest that the FCC require Section 106 consultation on all communications towers forty-five years old or older and that the decision to start a Section 106 review of an existing tower should be made by a professional who meets the Secretary of the Interior’s professional qualifications standards in history or architectural history (proposed 1997 *Standards*). A simple review of communications company records or FCC Antenna Structure Registration database records will not be sufficient in that many dates given for historic towers do not reflect actual construction dates and are skewed towards the dates the original tower builders sold their facilities.

Respectfully Yours,

Christine Madrid French
President
434-293-2872

cc: Ms. Elizabeth Merritt, National Trust for Historic Preservation
Mr. John Fowler, Advisory Council on Historic Preservation
Ms. Nancy Schamu, National Conference of State Historic Preservation Officers
Dr. Amos Loveday Jr., Federal Communications Commission