

Environmental Compliance:  
Section 106 and NEPA  
Adverse Effects, MOA, and EA



Federal Communications Commission



# Adverse Effects

- When an adverse effect is recommended and the SHPO and/or the THPO concurs, the applicant must notify the FCC and the ACHP
- The ACHP does not always participate in a project but must be asked. **The applicant is responsible for submitting the documentation and request to the ACHP**
- An adverse effect does not stop a project
- **To go forward, the applicant must submit an alternatives analysis and a mitigation plan. If the Form 620/621 recommends an adverse effect, these two elements must be included in the original documentation to the SHPO and THPO**



# Alternatives Analysis

- Demonstrate to SHPO, THPO, FCC, and consulting parties that the applicant has considered other sites
- Provide maps that show other sites
- Provide a narrative that explains the reason for the preferred site
- If requested, provide RF information to the FCC. This will be reviewed by FCC engineering staff
- The applicant may request that any proprietary information be restricted to the FCC



# Mitigation





# Mitigation Suggestions

- Lower the tower
- Reduce the size of the communications gear
- Paint the tower and gear
- Install a stealth tower
- Plantings
- Provide a benefit to the affected historic property

# Providing a Benefit to an Historic Property



- Prepare or update a National Register nomination
- Commission HABS or HAER documentation
- Install signs
- Prepare a brochure
- Develop a cell phone tour
- Work with the SHPO and local community to identify historic preservation needs



# The MOA

- Applicant should negotiate with SHPO, THPO, and consulting parties on the stipulations for mitigation
- Applicant should prepare the MOA following the FCC template
- All MOAs are reviewed by the FCC FPO and an FCC attorney
- Generally, most MOAs do not require that all of the mitigation measures be completed prior to construction
- The MOA should include a reporting requirement to notify all of the signatories that the mitigation measures have been completed

# Environmental Assessment



- S106 does not require an EA but FCC rules require that all project proponents of communications facilities that have adverse effects prepare an EA
- All EAs are placed on “public notice” by the FCC and allow for an additional public comment period