



**Navajo Nation Telecommunications and Broadband Regulations v7.2**  
1<sup>st</sup> Draft Version of Official Document  
July 2024

***For Internal Review Only***  
**Confidentially Statement**  
2024 Navajo Nation

This document may contain relevant information for processes and projects ONLY relevant and concerning to the Navajo Nation Telecommunications and Broadband Regulation.

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### Relevant Notes about Document

- The following serves as an outline and summary of standards for new facility development and associated broadband services delivered in the Navajo Nation to be refined in final regulations subject to review and approval of the RDC.
- Based on feedback from the RDC VC, the committee does not support interim policy, thus, we have two major objectives - move the BBDE Plan forward with collaboration with the NLD and appease the RDC with this draft.
- The regs are meant to be comprehensive and cover (II.) fiber and (III.) wireless facilities and associated broadband services. A draft Section (III.) is provided below.
- The BBDE Plan execution is not dependent upon the adoption of any further regulations, however, DEI must submit a request for TAA covering the fiber corridor and a request for an assessment waiver of all ROW and lease fees.
- The following wireless section will allow wireless infrastructure development on all “legally determined” lands, including existing lease sites legally established before 2013, business site leases, and other sites established under federal agreements. The section addresses the following major objectives:
  - Legalizes existing infrastructure established under prior agreements for collocations.
  - Establishes rights to develop telecom under subleases.
  - Establishes permitting system for collocation and construction including federal CATEX provisions administered by the NNBO.
  - Provides for market-based lease and permit fee rates.
  - Establishes the NNTRC as the enforcement entity and consideration of appeals.

### Audience

This document is intended for internal reviewers such as relevant personnel of Navajo Nation Land Department, Navajo Nation Broadband office, Navajo Nation Telecommunication Regulatory Commission and Digital Equity Initiative team.

### Document Conventions

This document uses the following conventions:

Convention	Description
□ <b>TBD</b>	TBD

### Document History

Version	Description	Date	Author
1.0	Telecom and BB Regs Outline	06/05/2024	Team
2.0	Preliminary for Internal Review	6/22/2024	Team
3.0	Preliminary for internal Review	07/01/2024	Team
4.0	Merged NLD-DEI draft	07/05/2024	DEI/NLD
5.0	Merged RA and DEI draft	07/08/2024	DEI/NLD
6.0	Merged NLD-DEI draft	07/08/2024	DEI/NLD
7.2	Draft Version for Release	07/08/2024	DEI/NLD

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## Sec. I. Administrative Procedures

1. Title
  - 1.1. These Regulations shall be referred to as the Telecommunications and Broadband Regulations.
2. Scope
  - 2.1. These regulations are intended to address all fiber and wireless telecommunications deployment and operation within the Navajo Nation.
  - 2.2. These regulations do not repeal prior ROW and/or lawful lease or permit agreements established by the Nation or BIA before enactment.
  - 2.3. These regulations provide permitting standards and administrative authorities under the NNBO augmenting the existing General and Business Site leasing regulations administered by DNR and DED respectively.
  - 2.4. These regulations also address the Navajo Broadband Development Plan and dark fiber network, which designates a fiber roadmap of corridors to interconnect all 110 Chapters following existing rights of way for roadways and other established utility easements. The corridors will link and leverage existing facilities as well as new facilities under a common fiber policy authorized by the Navajo Land Department (NLD), subject to Resolution No. RDCJN-17-20.
  - 2.5. Authority and Delegation to the Navajo Land Department, Division of Natural Resources These Telecommunications and Broadband Regulations (“Regulations”) are adopted pursuant to the Navajo Nation General Leasing Regulations of 2013 (the “General Leasing Regulations”) (approved by Navajo Nation Council Resolution No. CO-53-13 (Oct. 22, 2013) and by the Assistant Secretary of Indian Affairs (May 16, 2014)), the Navajo Telecommunications Regulatory Act, 21 N.N.C. §§ 501 et seq., (the “Telecommunications Act”), 2 N.N.C. §§ 500(C) and 501, Resolution No. \_\_\_\_\_ of the Resources and Development Committee of the Navajo Nation Council (\_\_\_\_\_, 2017), and \_\_\_\_\_, 2017 Order of the Navajo Nation Telecommunications Regulatory Commission in Docket No. \_\_\_\_\_.
3. Purpose:
  - 3.1. The purposes of these Regulations are to:
  - 3.2. Promote fair competition amongst providers, protect consumer rights, ensure public safety, and maintain the integrity of wireless telecommunications services in the public interest of the Navajo Nation.

- 3.3. Address telecom permitting for the expansion of existing and proposed fiber and wireless telecommunications sites conditioned upon land use compliance.
- 3.4. Develop and streamline policies and procedures for the issuance of Telecommunications Tower Leases, Permits, and Rights of Way as they relate to surface land use for telecommunications, as well as Collocations on Non-Tower Structures, to legalize current uses of Collocated telecommunications facilities and, to implement the Navajo Nation General Leasing Regulations; and
- 3.5. Delegate final approval authority from the RDC to DNR, acting through the Department Manager of NLD, to enter into, modify, renew, and enforce collection of rent for all Telecommunications Tower Leases on Navajo Nation Land, all expansions of ground area rights in connection with Towers and communications equipment, and all Collocations on Non-Tower Structures on Navajo Nation Land; and
- 3.6. Grant authority to the Department Manager of NLD to write procedures specifically for these Regulations for review and approval of Telecommunications Tower Leases, Permits, and Collocations Site Permits, and subleases, as applicable, on Navajo Nation Land, without a separate review and approval process by RDC; and
- 3.7. Consistent with these Regulations and other applicable law, help ensure that residents, businesses, government institutions, health facilities, and public safety facilities located on the Navajo Nation have reliable access to telecommunications networks and broadband fiber optic and similar facilities to promote the health and welfare of the Navajo citizenry and to provide modern telecommunications and broadband technology to the Navajo People; and
- 3.8. Provide previously unavailable economic, education, communications, and telemedicine opportunities to the Navajo People across the Navajo Nation to improve the quality of the lives of each member of the Navajo Nation as determined through each member's desires and aspirations within the bounds of applicable laws.
- 3.9. Encourage the further deployment and investment in communications infrastructure by carriers, neutral host tower companies, and other third parties by providing streamlined and established rules and regulations that allow for the reasonable certainty of the calculation of requirements, liabilities, and return on investment, and consistent non-discriminatory application of such rules and regulations; and

- 3.10. Create uniformity of review, approach, and management of existing and future Telecommunications Tower Leases and Collocation Site Permits and subleases, as applicable, and uniformity of enforcement of established rules and regulations; and
  - 3.11. Ensure that the placement, construction, and modification of Towers and Telecommunications Facilities comply with applicable federal and Navajo Nation law, consistent with federal and Navajo Nation telecommunications and land use policies, and to protect the health, safety, welfare, aesthetic character, and traditional cultural values of the Navajo Nation, in part by:
    - i. Encouraging the use of existing Towers, where appropriate and feasible, for Collocations of Telecommunications Facilities to minimize the number of new Towers that would otherwise need to be constructed;
    - ii. Encouraging the placement of Towers and Telecommunications Facilities in unserved and underserved areas of the Navajo Nation;
    - iii. Conducting a Compliance Determination (biological and cultural compliance) consistent with Navajo law, Navajo land use policies, and the General Leasing Regulations. Such compliance determinations may be submitted to the Federal Communications Commission (“FCC”).
4. Definitions
- 4.1. **Accessory Equipment:** Any equipment serving or being used in conjunction with a Telecommunications Facility or Tower for communications purposes. This equipment includes but is not limited to, utility or transmission equipment, converters, power supplies, fuel tanks, generators, batteries, cables, wiring, equipment buildings, equipment cabinets and storage sheds, shelters, or other structures.
  - 4.2. **Allotted Lands:** Individually owned federal trust acreage.
  - 4.3. **Antenna(e):** Any device used to collect or radiate electromagnetic radio frequencies for the provision of wireless communications services, including but not limited to, cellular, paging, personal communications services (PCS), public safety, broadcast radio and television, and microwave communications. Such devices include, but are not limited to, directional antennae, such as panels, microwave dishes, satellite dishes, and omnidirectional antennae. An apparatus designed for the purpose of emitting radio frequency (“RF”) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the transmission of writing, signs, signals, data, images, pictures, and sound of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a Tower, structure, or building as part of the original of the antenna. The term does not include

- unintentional radiators, mobile stations, or devices authorized by other communications rules.
- 4.4. **Applicable Codes:** Uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the Navajo Nation.
  - 4.5. **Authorized Occupant:** Any lessee or permit holder who has been issued a valid approved instrument by the Navajo Nation or the BIA that is currently in effect.
  - 4.6. **Ballasted Support Structure:** Ballasted base frame supporting a monopole, without placement of foundations or footings in the ground.
  - 4.7. **Broadband:** Broadband is a fast, reliable connection to the internet that is always on, defined by the FCC as download speeds of 100 megabits per second and upload speeds of 20 megabits per second.
  - 4.8. **Broadband Services Types:** Broadband service, whether delivered over Fiber optic networks, wireless networks, DSL provided over phone lines, cable, or satellite.
  - 4.9. **Collocate:** To install, mount, maintain, modify, operate, or replace Telecommunications Facilities on or adjacent to an existing Tower or Utility Pole. “Collocation” has a corresponding meaning.
  - 4.10. **Collocation:** The mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.
  - 4.11. **Collocation Permit:** A permit issued to a Collocator authorizing the installation of Telecommunications Facilities and/or Accessory Equipment.
  - 4.12. **Collocation Site Lease:** A lease of space on a Non-Tower Structure to a communications provider.
  - 4.13. **Collocator:** A Person or company that places equipment on a Tower or Non- non-tower structure and is not the owner or lessee of the tower.
  - 4.14. **Commercial operations:** Any broadband facilities and services extended in whole or in part to any for-profit business customer/operator located, or to be located, in the Navajo Nation.
  - 4.15. **Federal Communications Commission (FCC):** The Federal Communications Commission regulates interstate and international communications by radio, television, wire, satellite, and cable in all 50 states, the District of Columbia and



U.S. territories. An independent U.S. government agency overseen by Congress, the Commission is the federal agency responsible for implementing and enforcing America's communications law and regulations.

- 4.16. **Maintenance:** Maintenance in the context of telecommunication facilities refers to the scheduled and unscheduled actions performed to ensure the continuous and optimal operation of telecommunication equipment, systems, and infrastructure. This includes routine inspections, testing, troubleshooting, repairs, upgrades, and replacements of hardware and software components. The primary goal of maintenance is to prevent failures, extend the lifespan of equipment, enhance performance, and ensure reliable communication services. Maintenance activities can be categorized into preventive, corrective, and predictive maintenance
- 4.17. **Navajo Nation Fee Lands:** Lands partially or wholly owned in fee-simple by the Navajo Nation.
- 4.18. **Navajo Nation:** The territorial jurisdiction of the Navajo Nation shall extend to Navajo Indian Country, defined as all land within the exterior boundaries of the Navajo Indian Reservation or of the Eastern Navajo Agency, all land within the limits of dependent Navajo Indian communities, all Navajo Indian allotments, all land owned in fee by the Navajo Nation, and all other land held in trust for, owned in fee by, or leased by the United States to the Navajo Nation or any Band of Navajo Indians.
- 4.19. **Navajo Nation Land(s):** means any Land or any interest in Land owned or held by the Navajo Nation, or held in trust in whole or in part by the United States of America for the Navajo Nation, whether within or outside the boundaries of the Navajo Nation.
- 4.20. **New Land Disturbance:** Any action by any Person that would result in any ground disturbance (either laterally or with vertical depth) outside previously disturbed areas, including disturbance associated with temporary support of utility, communications, or related transmission lines. For purposes of this definition, "ground disturbance" means any activity that moves, compacts, alters, displaces, or penetrates the ground surface of previously undisturbed soils.
- 4.21. **Non-conforming Use:** Non-conforming use in the context of telecommunication facilities refers to the utilization of land or structures for purposes that do not comply with current regulations or land-use planning ordinances. This situation typically arises when a facility was established and operational before the implementation of new regulation or laws that would otherwise prohibit its use or restrict its operations. Non-conforming use allows the existing telecommunication

facility to continue functioning despite not adhering to current legal or regulatory standards, often under specific conditions or limitations to mitigate its impact. \_

- 4.22. Land Use Compliance: Land Use Compliance: Determination by the NLD, following review of documentation indicating a land site for a telecommunications proposed project complies with the Navajo Business Site Leasing or General Leasing regulations, or a federally approved instrument granted by the BIA.
- 4.23. Legally determined lands: Legally determined lands encompass telecom leases, business sites, or other underlying lease areas, lands under the jurisdiction of the Bureau of Indian Affairs (BIA), or other agreements authorized by DOJ that are in good standing with all Navajo laws and regulations.
- 4.24. Non-Tower Structure: Such man-made structures as Utility Structures, buildings, and water tanks, which are not Towers.
- 4.25. Permit: A permit or license given by an authorized public official or agency to allow a Person or business to perform certain acts with respect to the maintenance, ownership, or operation of a Tower or Telecommunications Facilities, and shall include Collocation Permits and Temporary Telecommunications Permits (TTP). All permits or licenses shall be for a period of five (5) years and can be renewed for additional five (5) year periods.
- 4.26. Person: Any individual, group of individuals, corporation, partnership, association, company, state, municipality, commission, political subdivision of a state, interstate body, and the federal government or any agency thereof, but does not include the Navajo Nation.
- 4.27. Substantial Modification. A modification substantially changing the physical dimensions of an eligible support structure if it meets any of the following criteria:
- 4.27.1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
- 4.27.2. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of

- originally approved appurtenances and any modifications previously approved.
- 4.27.3. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- 4.27.4. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- 4.27.5. Any excavation or deployment outside of the current lease or sublease site shall require a lease amendment; or
- 4.27.6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant.
- 4.28. Wireless Telecommunication Facility (WTF) means any facility constructed, installed, or operated for wireless service. “Wireless communications facility” includes, may include but is not limited to:
- 4.28.1. Antennas and other accessory wireless equipment if used for the transmission or receipt of radio signals, including any small cell installation.
- 4.28.2. Towers, whether a self-supporting tower, a monopole, a lattice tower, or a guyed tower, including small cell towers under 50’ in height.
- 4.28.3. Non-tower structures, such as water tanks or water towers, buildings, and flagpoles used for the collocation of wireless equipment.
- 4.28.4. Poles, whether used for utility services, lighting, traffic, or advertisement, made of wood, concrete, metal, or other material, located within or outside

a public Right of Way or utility easement if used for the collocation of wireless equipment.

- 4.28.5. Shelter or equipment buildings, parking areas, utilities, and other accessory development as required for wireless services.
- 4.28.6. Temporary wireless telecommunications facilities such as Cell On Wheels, Nonpenetrating structures, Cranes, trucks, etc.

#### 4.29. Temporary Wireless Facilities:

Temporary wireless facilities are typically used to provide additional capacity or coverage in areas where permanent infrastructure is not feasible or during special events. Here are some common types of temporary wireless facilities:

- 4.29.1. Cell on Wheels (COWs): These are portable cell sites that can be moved to different locations to provide temporary coverage. They are often used during large events, disasters, or in areas with temporary high demand.
- 4.29.2. Cell on Light Trucks (COLTs): Similar to COWs, these are mounted on light trucks and can be deployed quickly to provide temporary cellular coverage.
- 4.29.3. Mobile Cell Sites: These are portable units that can be placed in strategic locations to enhance network capacity and coverage temporarily.
- 4.29.4. Portable Base Stations: These are compact and transportable base stations that can be set up quickly to provide temporary cellular service.
- 4.29.5. Satellite Communications (Satcom) Units: These units use satellite connections to provide wireless communications in remote or underserved areas where traditional infrastructure is unavailable.
- 4.29.6. DAS (Distributed Antenna Systems) on Wheels: These systems can be set up in areas with high user density to improve signal strength and network capacity.
- 4.29.7. Small Cells on Wheels: These are small, portable cell sites that can be deployed in areas with specific coverage needs, such as urban canyons or indoor venues.
- 4.29.8. Unmanned Aerial Vehicles (UAVs) or Drones: These can be equipped with cellular technology to provide temporary coverage in hard-to-reach areas or during emergencies.

- 4.29.9. These temporary wireless facilities are essential for maintaining communication during events, emergencies, or in areas with inadequate permanent infrastructure.
- 4.29.10. Tower is any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.
5. Administrative Authority
- 5.1. Any determination of land use compliance according to these regulations necessary for the subsequent development, construction, modification, and operation of wireless infrastructure shall be administered by the NLD. The permitting standards within these regulations shall also be administered by the NLD or assigned agent.
6. Violations
- 6.1. These Regulations will be enforced by the DNR Executive Director pursuant to the Navajo Nation Trespass Act, found at 16 N.N.C. §§ 2201 *et seq.*; and the General Leasing Regulations, found at 16 N.N.C. §§ 2301 *et seq.*, and the Business Site Leasing Regulations, found at \_\_\_\_\_ *et seq.*, and such other penalties as may be enacted from time to time by RDC according to resolution or amendment to these Regulations.
- 6.2. The NLD or DED, to the extent existing business site leases must be modified or amended to authorize the use of the lease premises for telecommunications purposes, shall administer and grant land use compliance and determine any violations.
7. Enforcement and Appeals
- NLD to first handle, if not, refer to NNTRC or OHA.
- 7.1. The NNTRC will handle enforcement permit violations and appeals to these regulations.
- 7.2. All appeals to these regulations shall be handled by the Navajo Office of Hearings and Appeals (OHA), which exercises the delegated authority to conduct hearings and decide appeals of the Navajo tribal government. The OHA provides an impartial forum for parties who are affected by the decisions to obtain independent review of those decisions.

## 8. Subsequent Amendments

8.1. These Regulations are intended to create uniformity, consistency, and transparency in telecommunications siting and deployment across the Nation. It is contemplated that subsequent amendments may be needed to these Regulations to address circumstances not fully detailed or addressed in these Regulations. These Regulations shall be reviewed and amended or updated from time to time by RDC. In the event of any ambiguity in provisions of these Regulations or any circumstances that are not addressed, the Department Manager of NLD may determine such ambiguity or resolve circumstances not addressed within these Regulations; provided, any such ambiguities or decisions made by the Department Manager of NLD shall be reported in detail no less frequently than quarterly to RDC and RDC may at such times as it deems appropriate to amend these Regulations as necessary. It is the determination and will of RDC in passing these Regulations that separate waivers, side agreements, or preferential or discriminatory arrangements not be permitted, and all benefits and burdens of these Regulations and communications operating on the Nation's land be equal as to all parties.

## Sec. II. Wireless Telecommunications Facilities Regulations

### 1. Applicability

1.1. These regulations pertain to any Wireless Telecommunications Facility installation and operation granted by PERMIT subject to prior land compliance approval by the NLD under the General and Business Site Leasing Regulations, and by other pre-existing federal agreements as deemed acceptable by the NLD.

### 1.2. Compliance with all other Navajo Laws and regulations

1.2.1. Navajo preference - All owners of Telecommunications Facilities and Towers shall abide by the Navajo Preference in Employment Act and the Navajo Business Preference Act, including requirements for contracting and employing Navajo companies and workers for any site maintenance, inspections, tower climbing (if certified), and repair and maintenance work, to the extent available and commercially reasonable within the workforce.

1.2.2. Taxes - All owners, lessees, and operators of Telecommunications Facilities and Towers shall register with the Office of the Navajo Tax Commission, shall comply with all applicable Navajo Nation tax laws under Title 24 of the Navajo Nation Code and corresponding regulations, and shall be responsible for payment of all taxes due to the Navajo Nation in connection with their ownership of possessory interests, and gross receipts from sales and business activities, within the territorial jurisdiction of the Navajo Nation. In particular, such parties are responsible to determine and satisfy all liability for taxes owed to the Nation:

1.2.3. Exemptions - These Regulations apply to all Towers, Non-Tower Structures, Utility Structures, Temporary Telecommunication Permits and Telecommunications Facilities and related equipment or improvements placed on Navajo Nation Lands and Non-Tower Structures located on Navajo Nation Lands by any Person, except that the following communications facilities and infrastructure are not subject to these Regulations:

1.2.3.1. Fiber optic cable requiring a right-of-way under 25 C.F.R. Part 169, as regulated in Section II;

1.2.3.2. Antennae used by a Single Residence solely for personal communications;

- 1.2.3.3. Cellular signal booster or Fixed Wireless Access antennae used solely for a Single Residence;
- 1.2.3.4. Satellite reception antennae used solely for a Single Residence;
- 1.2.3.5. WLAN and Wi-Fi installations not installed on a Telecommunication Facility as defined herein; and
- 1.2.3.6. Communications equipment and facilities used by parties holding valid business leases or other permits, licenses, or grants from the Navajo Nation for commercial operations, provided any such communications equipment and facilities do not create a ground disturbance or tower construction and are used solely for the internal communications needs of the party and not for direct revenue generation or use by the public at large.

## 2. Identification of All Tower Sites and Collocations

- 2.1. All existing Tower locations and Collocations on Existing Towers or Non-tower structures must be identified and reported to the Navajo Land Department within 120 days after enactment of these regulations.
- 2.2. Prohibitions on Transfers to Lease - No transfer to lease under this Section 2 shall be permitted or processed, if the transfer applicant is deemed ineligible under the Navajo Business and Procurement Act, 12 N.N.C. §1505. It shall be the responsibility of each applicant for a transfer to lease to provide evidence that all payments for the underlying interest are current.

## 3. Collocation on Existing Towers

Preference shall be given to Collocation on existing Towers (including before Collocation on Non-Tower Structures) over granting rights to develop new Towers. NLD shall review applications for construction of new Towers and, as part of its review, shall examine whether an existing Tower can support the requested Telecommunications Facilities intended to be installed on the new Tower based on proximity to the location of the proposed new Tower, structural/loading capacity of the existing Tower (including any proposed modifications to the existing Tower to support additional loading), and whether there would be a material and adverse impact upon the functionality or quality of the network proposed to be served by the Telecommunications Facilities if located on the existing Tower as compared to the proposed new Tower, and shall make recommendations to the Department Manager of NLD. An existing Tower shall be presumed to be acceptable for Collocation (and an application for a new Tower shall be denied unless the applicant can demonstrate that there are no site candidates available within its RF design search ring deemed necessary to fulfill its intended coverage objectives).



4. Operation and Compliance of Wireless Facilities to Federal Requirements and other Navajo Nation Laws and Regulations
  - 4.1. Nothing in these regulations shall negate the obligation of wireless facility operators to comply with requirements of the Federal Communications Commission (FCC), which are enforced by the NNTRC. Key requirements include:
    - 4.1.1. Spectrum Licensing:
    - 4.1.2. Public Safety and Emergency Services, including E911 and Wireless Emergency Alerts (WEA).
    - 4.1.3. Consumer Protection, including Billing Practices, and Mobile Number Portability.
    - 4.1.4. Roaming Obligations to ensure continuous service availability to the maximum extent possible.
    - 4.1.5. Technical Standards and Interference Management, including power limits, emission standards, and coordination with other spectrum users.
      - 4.1.5.1. Accessibility: Providers must ensure that their services and equipment are accessible to individuals with disabilities, in compliance with the Americans with Disabilities Act (ADA) and related FCC regulations.
      - 4.1.5.2. Network Reliability and Security: Providers must implement measures to ensure the reliability and security of their networks, including protection against cyber threats and ensuring robust network performance during emergencies.
      - 4.1.5.3. Spectrum Management: Providers must adhere to spectrum management rules, which include avoiding interference with other spectrum users and participating in spectrum-sharing arrangements when applicable.
      - 4.1.5.4. Data Privacy and Security: Providers are required to protect the privacy and security of customer data, including implementing safeguards against unauthorized access and data breaches.
      - 4.1.5.5. Reporting and Record-Keeping: Providers must maintain records and submit various reports to the FCC, including outage reports, compliance certifications, and other required documentation.

4.1.5.6. Environmental and Historic Preservation Compliance: Providers must comply with environmental and historic preservation regulations when deploying infrastructure, such as cell towers and other facilities.

## 5. Abandoned Telecommunications Facilities or Structure

5.1. Any telecommunications facility or structure, or tower, that is not operating, as evidenced by removal or lack of communications equipment, lack of electricity to the site, or lack of any transmission or reception of radio frequencies for a period of one hundred eighty (180) consecutive calendar days, or not operated for a continuous period of twelve (12) months, shall be deemed abandoned, whether or not the owner or operator intends to make use of the facility. In such event, any lease, Permit, TPP, or any other right or grant for the use of land or a Non-Tower Structure shall no longer be valid, cannot be transferred or assigned, and any such Telecommunications Facilities or Towers shall become the exclusive property of the Navajo Nation and may be resold or leased by the Nation unless the owner of the Telecommunication Facility or Tower removes such property and restores the land or Non-Tower Structure to substantially the condition it was in prior to installation of the relevant equipment and improvements. Upon determination that a telecommunications facility, tower, or antenna is abandoned, a written notice of the abandonment shall be sent to the owner of the telecommunications facility, tower, or antenna and the owner of the property if different. The notice shall be mailed by certified mail, return receipt requested. The owner of the telecommunications facility, tower, or antenna and the owner of the property if different shall have 60 days after receipt of the notice to remove all the facility, including any and all footings and foundation. If Telecommunications Facilities or Towers are not removed within 60 days after receipt of notice notifying the owners of the abandonment, the Navajo Nation may remove the facility and file a lien against the property for the costs of removal. If the Navajo Nation takes ownership of same, such property shall be uninstalled, dismantled, and removed, and the last owner of record shall be liable for the total cost of removal plus a ten percent (10%) administration fee. The Navajo Nation may pursue any and all available legal remedies to ensure that an abandoned telecommunications facility, tower, or antenna is removed. Any delay in taking action to enforce the removal of an abandoned telecommunications facility, tower, or antenna shall not waive the Navajo Nation's right to take any action at a later time. The Navajo Nation may seek to have the telecommunications facility, tower, or antenna removed regardless of the owners' or operator's intent to operate the facility, and regardless of any permits, federal, state, or otherwise, which may have been issued or granted. If the owner of an abandoned telecommunications facility,

tower, or antenna wishes to use such an abandoned facility, the owner shall first apply for and receive all applicable permits and meet all the conditions as if the telecommunications facility, tower, or antenna were a new facility.

## 6. Nonconforming Uses.

- 6.1.1. Conforming Use: Towers that are constructed, and antennas that are installed in accordance with the provisions of these regulations shall be deemed to constitute the conforming uses or structures even when new facilities are being added to a non-conforming installation as defined in Section I.
- 6.1.2. (b) Pre-existing Towers: Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height serving the same purpose) shall be permitted on such pre-existing towers. A replacement tower must be constructed within one hundred eighty (180) days following any removal of the initial facility. New construction other than routine maintenance on a pre-existing tower shall comply with the provisions of this Chapter.
- 6.1.3. (c) Rebuilding Damaged or Destroyed Non-conforming Towers or Antennas: Bona fide non-conforming towers or antennas that are damaged or destroyed may be rebuilt. The type, height, and location of the tower onsite shall be of the same type as the original facility. If there are any changes contemplated in the previous design the owner of any such facility must submit the said changes to the NLD for review and approval. Should the NLD fail to act on the owner's request within a period of sixty (60) Days, the request will be deemed granted. Any permits to rebuild the facility shall comply with all current building codes and shall be obtained within one hundred-eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Sec. 5.

## 7. Maintenance

Ordinary Maintenance of Telecommunications Facilities and Towers as defined in Section I, (4.) shall be exempt from permitting/approval requirements within these regulations. This includes subcontracting with other companies to perform maintenance as necessary to avoid outages and maintain network integrity.

## 8. Leases, Tower Site Modifications, and Collocation Requirements

### 8.1. Leases and Subleases:

8.1.1. All new tower permit applications shall require an approved lease executed with the NLD or a sublease agreement executed between the applicant and the underlying leaseholder. All tower sites shall have access to existing roads to be used for ingress and egress. If the project requires new access, the holder of the underlying lease must apply for a Right-of-Way.

### 8.2. Tower Site Modifications

8.2.1. Any modifications or amendments to a Telecommunications Tower Lease to increase the area of land exceeding federal CATEX provisions (30 ft.) shall require approval by NLD and compliance with NLD's procedures for modifications set forth herein, which may include a lease amendment and compliance with Land Withdrawal Regulations, if applicable.

8.2.2. Modifications to replace equipment (to obtain greater signal capacity) on any Tower or Non-Tower Structure shall require a permit subject to 13.1.6. (Note: replacing equipment does not trigger a tower site modification.)

8.2.3. NLD is authorized to create and maintain copies of standard procedures and checklists and update same, for all modifications to ground space and modifications to equipment for Towers and Non-Tower Structures. (See: Appendix)

### 8.3. Collocations On Towers and Non-Tower Structures

8.3.1. Collocations on Tower structures shall require authorization and approval through the issuance of a permit from the NLD. Permits shall be issued for a term concurrent with the underlying lease.

8.3.2. If the requirements of Sections 12 and 13 are met and no Substantial Modification to the Tower is required, any proposed Collocation shall be permitted without the need for further input, inquiry, and 164 processing.

8.3.3. The applicant obtains and pays for a Collocation Permit as more particularly set forth below.

8.3.4. Receipt of payment of Collocation fees to NLD.

## 9. Wireless Telecommunication Facilities Permitted Uses

- 9.1. Wireless Telecom Uses on Trust Land Areas
  - 9.1.1. New tower development, including small cell towers on undeveloped lands by telecom lease under the Navajo General Leasing Regulations.
  - 9.1.2. New tower development, including small cell towers on developed lands by sublease under the Navajo Business Site Leasing Regulations.
  - 9.1.3. New tower and small cell development within a ROW, utility easement, or other instrument issued by the BIA and approved by NLD.
  - 9.1.4. Collocation of wireless facilities:
    - 9.1.4.1. On existing towers
    - 9.1.4.2. On non-tower structures
  - 9.1.5. Tower Modifications
  - 9.1.6. Emergency and Temporary Wireless Facilities
    - 9.1.6.1. Temporary Wireless Facilities, including COWs, COLTs, or Ballasted Support Structures may be deployed and operated on Navajo lands for a period of not more than [10 days] days, when operated in connection with a special event after issuance of a Temporary Permit by the Administrator based upon an Administrative Review only. A Temporary Wireless Facility may be operated in conjunction with a special event shall meet reasonable setbacks determined by the Administrator, shall be subject to all applicable building, fire, and safety codes, and shall be removed within seventy-two (72) hours of completion of the event.
    - 9.1.6.2. A Temporary Wireless Facility may be operated in any location on the Navajo Nation, following a declaration of an emergency or a disaster by order of OPVP.
    - 9.1.6.3. Issuance of a TTP is subject to the express written permission of the Authorized Occupant of the encumbered or withdrawn Navajo Nation Land.
    - 9.1.6.4. Every Person seeking to temporarily place any non-permanent communications structure, including COWs, COLTs, or Ballasted Support Structures on Navajo Nation Land is required to obtain a Temporary Telecommunications Permit (“TTP”) issued by NLD.

9.1.6.5. Unless an emergency situation exists that could immediately affect life or property, TTPs will only be issued for placement on land that is: already disturbed or authorized to be disturbed pursuant to a valid surface lease or authorized to be disturbed within a land withdrawal area because the site has gone through a satisfactory federal or Navajo Nation environmental review. Placement of a COW, COLT or Ballasted Support Structures on Navajo Nation Land where these conditions are not met shall require a lease which may be short-term in nature if requested by the applicant.

9.1.6.6. Issuance of a TTP is subject to the express written permission of the Authorized Occupant of the encumbered or withdrawn Navajo Nation Land.

## 9.2. Wireless Telecom Uses on non-Trust Land areas

### 9.2.1. Navajo Allotted Lands

9.2.1.1. The BIA and not the Navajo Nation has jurisdiction and authority to enter into leases on allotments. Any telecom use and development on allotted lands shall require proof of a valid lease agreement issued by the BIA or sublease agreement with the underlying leaseholder before permit issuance.

9.2.1.2. Any leases on allotments must still comply with all laws and regulations of the Navajo Nation and the Federal Communications Commission. Violators will be subject to enforcement as outlined in these Regulations.

### 9.2.2. Navajo Nation Fee Lands

9.2.2.1. Telecom use and development may occur on Navajo Nation Fee Land provided written proof of permission from the authorized occupant of such fee land is provided to the NLD as part of the application process.

1.1.1.1. The original lease or other right granted between the Navajo Nation and the Authorized Occupant must be amended to allow for additional uses.

## 10. Permit Application Procedures (Consider Matrix to separate different application requirements.)

Application Requirement	New Site	Tower	Tower Site Modification	Tower Collocation	Non-Tower Collocation

- 10.1. Permit Required. No wireless telecommunications facility shall be installed on Navajo land without first obtaining an approved permit issued by the NLD subject to these requirements.
- 10.2. Pre-application Meeting. Depending on the project's scope, NLD may require applicants to schedule a pre-application meeting.
- 10.3. The Application shall be made by the applicable provider or its duly authorized representative for the development of a tower site or siting of any other wireless facility on an existing tower or non-tower structure and shall contain the following: (Note: The NLD has discretion to require.
  - 10.3.1. The Applicant’s name, address, telephone number, and e-mail address, including emergency contact information for the Applicant.
  - 10.3.2. The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant concerning the filing of the Application.
  - 10.3.3. Documentation of land use compliance meeting the approval of the NLD.
  - 10.3.4. A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed. See annex Narrative report in Applications Package Requirements for Details.
  - 10.3.5. Detailed construction drawings regarding the proposed facility [ADD CROSS-REFERENCE TO OTHER EXISTING CODE PROVISIONS THAT PROVIDE SPECIFIC REQUIREMENTS FOR DRAWINGS]. See annex Applications Package Requirements for Details.

- 10.3.6. To the extent the proposed facility involves Collocation on a Pole, Tower, or non-Tower Support Structure, a structural report performed by a [duly licensed engineer] evidencing that the Pole, Tower, or Support Structure will structurally support the Collocation (or that the Pole, Tower or Support Structure will be modified to meet structural requirements) following Applicable Codes. See annex Applications Package Requirements for Document Details and annex Current Code and Design Criteria for code compliance.
  - 10.3.7. For any new aboveground facilities, visual depictions or representations if not included in the construction drawings. See annex Applications Package Requirements for Details.
  - 10.3.8. A site plan approval, subject to a legally determined land status shall be required for any new Wireless Telecommunication Facility and non-conforming existing Wireless Telecommunication Facilities, detailing elements including utilities, access, fencing, and equipment enclosures subject to the provisions within Section 13. See annex Applications Package Requirements for Details.
  - 10.3.9. Collocations shall require a copy of the applicable subtenant sublease or a certified summary thereof, exclusive of payment terms.(follow applicable Tax laws)
  - 10.3.10. A copy of a structural analysis of the Tower, inclusive of the proposed Telecommunications Facilities, shall be provided to NLD within the Review Period, and such structural analysis indicates that the Tower will not fail under the TIA Standard upon installation of such proposed Telecommunications Facilities. See annex Applications Package Requirements for Document Details and annex Current Code and Design Criteria for code compliance.
  - 10.3.11. The NLD or its agent has the discretion to require additional information as may be deemed warranted to properly evaluate the project.
- 10.4. Ordinary Maintenance, Repair, and Replacement. An Application shall not be required for Ordinary Maintenance, Repair and Replacement.

## 11. Design Standards

### 11.1. General provisions:



- 11.1.1.1. The construction and location of Wireless Telecommunication Facilities shall be subject to the standards contained in this regulation unless otherwise noted herein.
  - 11.1.1.2. Every Wireless Telecommunication Facility constructed within the Navajo Nation shall comply with all safety standards of the American National Standards Institute, Institute of Electrical and Electronic Engineers, Public Utilities Commission, Federal Communications Commission, International Building Code, Telecommunications Industry Association, National Electrical Code and any other codes and standards as applicable.
  - 11.1.1.3. Exceptions to the current design adoption standard may be allowed for existing non-conforming Wireless Telecommunication Facilities built previously provided no major modifications are done to the structure. The final consideration for this shall be properly determined by an independent expert in the field (structural engineering firm or SME) under the administration of the NLD or designated agent.
  - 11.1.1.4. (NOTE: Moved to section 12) A site plan approval, subject to a legally determined land status shall be required for any new Wireless Telecommunication Facility and non-conforming existing Wireless Telecommunication Facilities.
  - 11.1.1.5. Collocations and tower site modifications shall comply with the current design adoption standard and address FCC - Nationwide Programmatic Agreement and other CATEX provisions as deemed applicable for NEPA compliance.
- 11.2. Requirements. The following requirements shall apply to Wireless Telecommunication Facilities.
- 11.2.1. Setbacks. The Setback for Towers is 105 percent of the tower height from all property lines so that in case of collapse or failure the Tower would be contained on the property. Setbacks may extend onto Adjacent properties if there are dedicated fall zone Easements.
  - 11.2.2. Load Capacity. Towers must support all anticipated loads, including antennas, dishes, cables, and other equipment. Consideration of wind, ice, seismic loads, and other environmental factors as per ANSI/TIA and the International Building Code.

- 11.2.3. **Material.** Use high-strength steel or equivalent materials with corrosion-resistant properties. Material selection should comply with the ASTM standard.
- 11.2.4. **Foundation.** Foundations must be designed based on soil analysis and load-bearing capacity. Must ensure stability under all environmental conditions, including extreme weather and seismic activity.
- 11.2.5. **Safety Factors.** Apply appropriate safety factors for load-bearing capacity, including dynamic and static loads. The structure design shall withstand natural disasters like earthquakes, heavy winds, and heavy snowfall
- 11.2.6. **Guy wire anchors.** Guy wire anchors may be installed within a required setback, but shall not be placed within three feet of any lot line, or within any easement, sight distance triangle, runway or landing strip.
- 11.2.7. **Access roads.** Access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- 11.2.8. **Maintenance.** Inspections must be performed every three (3) years for guyed tower and five (5) years for monopoles and self-supporting towers.
- 11.2.9. **Visibility and Lighting.** Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by the Federal Aviation Administration. If lighting is needed, the applicant shall provide a detailed plan, complying with any local or “Night Skies” requirements.
- 11.2.10. **Security.** All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access.
- 11.2.11. **Signage. Security.** All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access.

### 11.3. New Wireless Telecommunication Facility

- 11.3.1. All new towers, whether a self-supporting tower, a monopole, a lattice tower, or a guyed tower, including small cell towers under 50’ in height must comply with the latest version of ANSI/TIA-222, the latest version of

the international building code and the requirements described in section 8.2.

11.4. Collocations on existing Wireless Telecommunication Facility

11.4.1. The proposal for a co-location or modification on an existing Tower requires signed documentation of the Tower condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222 H. A colocation shall be held to the same standard set forth in section 8.2. Inspections must be performed every three (3) years for guyed tower and five (5) years for monopoles and self-supporting towers.

12. Administrative Review Fees

TBD

13. Permit Fee Schedule

TBD

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### **Sec. III. Fiber Facility Regulations**

1. Purpose and Applicability
  - 1.1. This section regulates new fiber development whether underground or aerial on all Navajo lands.
  - 1.2. These regulations apply to tribal enterprises and all fiber operators and service providers.
2. Establishment of a Fiber Corridor Zone (FCZ)
  - 2.1. Purpose - Establishment of an area overlaying existing roadway and utility easements.
  - 2.2. CATEX allowances
3. Registration of Existing Facilities
  - 3.1. Applies to any fiber facility provider operating services as defined in (I.)
4. Fiber Facility Permitted Uses
  - 4.1. Fiber access on the Navajo Nation dark fiber network as established within the FCZ. The NN network shall be administered and leased by the NNBO to strategic partners in accordance with open access principles subject to a published rate schedule.
  - 4.2. Upgrade and expansion of existing facilities within the FCZ as an associate partner in exchange for dedicated (12) dark fiber strands to the NNBO.
  - 4.3. Any fiber project undertaken by a party independent of the FCZ under a separate ROW. ROW consents shall be processed as an application through the NLD and subject to review and approval of the RDC.
5. Operation of Existing Facilities and Maintenance Requirements
  - 5.1. Standards for all fiber facility operators as determined by the NNBO and NNTRC.
6. Access Permitting
  - 6.1. Indefeasible Right of Use (IRU)
  - 6.2. FCZ access permit
  - 6.3. ROW consent (BIA ROW)

7. Design Standards

7.1. Guy wire anchors. Guy wire anchors may be installed within a required setback, but shall not be placed within three feet of any lot line, or within any easement, sight distance triangle, runway or landing strip.

8. Fee Schedule

8.1.

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## Appendix For Section II

### A. Current Code and Design Criteria

#### 1. CURRENT CODE & DESIGN CRITERIA

##### 1.1. APPLICABLE CODE REQUIREMENTS

1.1.1. Applicable Building Code: The International Building Code (IBC).

1.1.2. Applicable National Design Standard: TIA-222-H, Structural Standard for Antenna Supporting Structures and Antennas dated October 2017, and all other codes and standards referenced by TIA-222-H.

1.1.3. Applicable Electrical Code: National Electrical Code (NEC)

##### 1.2. DESIGN PARAMETERS FOR COMMERCIAL APPLICATIONS

1.2.1. Structure Classification: Class II as defined in TIA-222-H Table 2-1.

1.2.2. Wind Load:

1.2.2.1. Basic Wind Speed: 95 miles per hour (3-second gust).

1.2.2.2. Exposure Category: C.

1.2.2.3. Topographic Category: 1.

1.2.3. Seismic Load:

1.2.3.1. Soil Bearing Pressure: A Soils Report is required.  
Allowable Foundation - per Soils Report

Allowable Lateral - per Soils Report

1.2.3.2. Site Class: Site Class Definition D.

1.2.4. Serviceability Criteria: Deflection and twist as calculated per TIA-222-H Annex D.

1.2.5. Classification of Climbing and Working Facilities: Class B.

1.2.6. Foundation Design: Per Building Code and National Design Standard. Document all soils criteria used and source of criteria.

##### 1.3. DESIGN PARAMETERS FOR PUBLIC SAFETY APPLICATIONS

1.3.1. Structure Classification: Class III as defined in TIA-222-H Table 2-1.

1.3.2. Wind Load:

1.3.2.1. Basic Wind Speed: 110 miles per hour (3-second gust).

1.3.2.2. Exposure Category: C.

1.3.2.3. Topographic Category: 1.

1.3.3. Seismic Load:

1.3.3.1. Soil Bearing Pressure: A Soils Report is required.  
Allowable Foundation - per Soils Report

Allowable Lateral - per Soils Report

1.3.3.2. Site Class: Site Class Definition D.

1.3.4. Serviceability Criteria: Deflection and twist as calculated per TIA-222-H Annex D.

1.3.5. Classification of Climbing and Working Facilities: Class B.

1.3.6. Foundation Design: Per Building Code and National Design Standard. Document all soils criteria used and source of criteria.

#### 1.4. MATERIALS

- 1.4.1. Tower steel. Fabricate to manufacturer's written standards, and TIA-222-H.
- 1.4.2. Tower coating. Hot dip galvanized after welding and fabrication of tower as outlined in ASTM A-123.
- 1.4.3. Concrete. 28-day compressive strength of 4500 PSI in accordance with ACI 318-14. Concrete mix shall comply with the Clark County Inter-Agency Quality Assurance Committee (IQAC)
- 1.4.4. for concrete mix designs.
- 1.4.5. Concrete Reinforcing. Typical ASTM A615, GRADE 60

### **B. Applications Package Requirements**

#### 1. SUBMITTALS

- 1.1. Narrative report: Brief explanation of the project.
  - 1.1.1. Title page – include project name, general location, case/tracking #, and vicinity map
  - 1.1.2. Purpose of Request
  - 1.1.3. Description of Proposal, including proposed uses(s), business operations, description/location of buildings, type of construction material, sign detail/descriptions, screening wall/fence details and location, etc.
  - 1.1.4. Relationship to Surrounding Properties
  - 1.1.5. Explanation of how the proposed development will benefit the community or area
  - 1.1.6. Discussion of recent changes in the area of your request that support the application request (i.e. adoption of city or town plans, subdivision approvals, surrounding development, etc.)
  - 1.1.7. Location and Accessibility
  - 1.1.8. Circulation System (on & off) – include proposed improvements or dedications
  - 1.1.9. Development Schedule (phasing)
  - 1.1.10. Community Facilities and Services (school district, etc.)
  - 1.1.11. Public Utilities and Services (power, fiber, etc.)
  - 1.1.12. Other information that will be helpful in evaluating the request
- 1.2. Construction drawings Stamped by a Professional Engineer: Drawings shall be specifically prepared for the Project. Do not include details that do not apply to specific Project.
  - 1.2.1. Include the location and orientation of the tower, structures, accessory structures, landscaping elements and site features as applicable.
  - 1.2.2. Property boundaries, setbacks, and easements.
  - 1.2.3. Dimensions for structures and spaces.
  - 1.2.4. Elevations of tower indicating location of all specified antennas.
  - 1.2.5. Electrical system plans and details.
  - 1.2.6. Electrical grounding system plans and details
  - 1.2.7. Enlarged views of specific, tower component, building components or connections.
- 1.3. Tower Structure manufacture's literature and technical data.
- 1.4. Structural calculations stamped by a professional engineer.
  - 1.4.1. Complete analysis and design of structural components and connections in accordance with design requirements indicated and with equipment mounted.
  - 1.4.2. Foundation calculations.
  - 1.4.3. Clearly identify all assumptions.
  - 1.4.4. Design shall be based on geotechnical report, site conditions and requirements stated in this

document.

1.4.5. Foundation drawings shall be submitted one week after receipt of purchase order.

1.5. Erection and foundation drawings Stamped by a Professional Engineer (New Towers)

1.5.1. Shall include complete information necessary for the erection of the structure, including the location and orientation of every piece and subassembly.

1.5.2. Base plate details showing anchor bolt size and bolt layout, foundation details, elevations of tower indicating location of all ladders and sections and details for all components and accessories. Identification numbers and a detailed description shall be shown on these drawings.

1.5.3. The sequence to be used in erecting the tower.

1.5.4. The required limits on plumpness of the structure.

1.5.5. Show detailed bill of materials.

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