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BROADBAND OFFICE
Office of the President and Vice President

NOTICE OF PROPOSED RULEMAKING (NPRM)
NAVAJO NATION BROADBAND OFFICE
INVITATION FOR PUBLIC COMMENTS REGARDING
SEC. II. WIRELESS TELECOMMUNICATIONS
FACILITIES REGULATIONS

Summary:

The Navajo Land Department (NLD), in collaboration with the Navajo Nation Broadband Office (NNBO), is inviting public participation in the development of Telecommunications and Broadband Regulations. These regulations aim to comprehensively govern the installation of fiber and wireless infrastructure and the delivery of broadband services across Navajo lands. At this time the group is seeking public comments on a draft of Section I, Administration and II, Wireless Telecommunication Facilities (see attached), which pertains to Wireless Telecommunication Facilities.

Following thorough public engagement, which may include future notices of proposed rulemaking (NPRMs), NNTRC reviews, and public work sessions and hearings, these drafts will be finalized and submitted to the Resources and Development Committee (RDC) for further consideration and potential adoption.

It is requested that public comments on the draft be submitted within (15) calendar days from publication of this NPRM by electronic and/or newsprint notification. The document to review can be downloaded from the Navajo Nation Broadband Office website <https://broadband.navajo-nsn.gov/>

All comments are due no later than 5:00 PM, July 23rd of 2024 and shall be submitted, preferably ONLINE via the following link, where respondents will upload their comments. Please provide your response as minimum the Point of Contact Information of the responder and/or entity name.

The link to upload responses is:

<https://bit.ly/4cLNVHt>

A web portal with the following title will open:

“NOTICE OF PROPOSED RULEMAKING (NPRM) -INVITATION FOR PUBLIC COMMENTS REGARDING WIRELESS TELECOMMUNICATIONS FACILITIES REGULATIONS”

Section II, Wireless Telecommunication Facilities

The NNBO seeks input from carriers on the attached draft, specifically on the following items:

- I. **Public Engagement:** Over the past five years, the NNTRC and DNR have struggled unsuccessfully to formulate wireless telecommunication siting regulations, failing to hold public or carrier workshops on regulatory concerns or provide a transparent record of proceedings. This NPRM is the second attempt since the NNTRC published an original NPRM in March 2021 and the NLD, NNBO, and NNTRC are committed to a more thorough rulemaking process this time. (A timeline for the adoption of the regulations is included below)
- II. **Preservation of Prior and Nonconforming Agreements:** The draft regulations propose to establish compliance for all existing wireless infrastructure if sufficient underlying land compliance is demonstrated by a valid lease, sublease, right-of-way (ROW), or other federal instrument established independently of the General Leasing Regulations CO-53-13, § 2305. The NLD shall determine land compliance based on a review of the underlying agreements.
- III. **Subleasing:** The draft regulations propose the development of wireless infrastructure by subleasing on any existing business, school, and other approved lease sites, subject to their land compliance and assigned possessory uses. This expands land and facility opportunities for broadband services to the Navajo people.
- IV. **Collocation:** The draft regulations propose the collocation of wireless equipment as permitted on all tower and non-tower structures by permit, consistent with FCC Categorical Exclusion (CATEX) provisions as authorized within the Nationwide Programmatic Agreement and allowances granted by the NTIA. This is a substantive change to the current procedures, which require a telecom sublease submission and 164 reviews.
- V. **Permit Application Procedures:** The draft regulations propose a permit system for tower construction and collocation uses, intended to enforce building and safety codes and promote the general health, safety, and welfare of the public. All permit applications are subject to review and approval through the NLD or other duly assigned tribal office.
- VI. **Design Standards:** The draft regulations propose design standards to foster quality facility construction and protect surrounding communities from external environmental, cultural, and visual impacts.
- VII. **Lease and Permit Fees:** The draft regulations do not propose adjusting the current lease fees until an independent market and economic study is completed to guide further legislative action.

NNTBR Timeline:

- 5/24 - Submit timeline for implementation of NN Telecommunications and Broadband Regulations to RDC - COMPLETED
- 6/5 - Finalize Internal Draft Outline - COMPLETED
- 6/12 - Public Meeting - Public, Carriers, and Stakeholders (Location: Gallup UNM campus) - COMPLETED
- 7/9 - 1st Draft of Regs & Notice of Public Rulemaking (NPRM)- COMPLETED
- 7/12 – Presentation of Draft of Regs - PLANNED
- 8/10 - 2nd Draft of Regs and (NPRM)
- 8/22 - Public Release
- 8/29 - Public Presentation
- 9/12 - RDC Presentation