

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Cellco Partnership d/b/a Verizon Wireless	)	File No.: EB-SED-22-00033134
	)	CD Acct. No.: 202332100007
	)	FRN: 0003290673
	)	
	)	

ORDER

Adopted: December 19, 2022

Released: December 19, 2022

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau of the Federal Communications Commission has entered into a Consent Decree to resolve its investigation into whether Cellco Partnership d/b/a Verizon Wireless (Verizon Wireless) constructed wireless facilities without complying with the Commission’s environmental and historic preservation rules, including rules implementing the National Environmental Policy Act of 1969 (NEPA) and the National Historic Preservation Act (NHPA).<sup>1</sup> To implement NEPA and section 106 of the NHPA, the Commission’s environmental and historic preservation rules require that current and prospective licensees and tower registrants assess certain types of proposed facilities, prior to the start of any construction, to determine the potential for a significant impact on the environment or historic properties. The Commission’s rules also direct these entities to coordinate with relevant state governments and tribal nations.<sup>2</sup> To settle this matter, Verizon Wireless (i) admits that it violated the Commission’s environmental and historic preservation rules by prematurely constructing wireless facilities prior to completing the required environmental or historical reviews and by constructing wireless facilities without onsite monitoring as requested by the affected tribes, (ii) will implement a robust compliance plan to ensure that it does not violate these rules in the future, and (iii) will pay a \$950,000 civil penalty.

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the referenced investigation regarding Verizon Wireless’s compliance with environmental and historic preservation requirements found in sections 1.1307 and 1.1312 of the Commission’s rules, implementing NEPA and NHPA.<sup>3</sup>

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Verizon Wireless’s basic qualifications to hold or obtain any Commission license or authorization.<sup>4</sup>

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<sup>1</sup> 47 CFR §§ 1.1307, 1.1312; National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852 (1970) (codified as amended at 42 U.S.C. § 4321 *et seq.*); National Historic Preservation Act, Pub. L. No. 89-665, 80 Stat. 915 (1966) (codified as amended at 54 U.S.C. § 300101 *et seq.*).

<sup>2</sup> See 47 CFR § 1.1301 *et seq.*

<sup>3</sup> See 42 U.S.C. § 4321 *et seq.*; 54 U.S.C. § 300101 *et seq.*; 47 CFR §§ 1.1307, 1.1312.

<sup>4</sup> See 47 CFR § 1.93(b).

4. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,<sup>5</sup> and the authority delegated by sections 0.111 and 0.311 of the Commission's rules,<sup>6</sup> the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Chris Miller, Senior Vice President & Deputy General Counsel, Verizon, 1300 I Street, NW, Suite 500 East, Washington, D.C. 20005, and e-mail to [chris.m.miller@verizon.com](mailto:chris.m.miller@verizon.com).

FEDERAL COMMUNICATIONS COMMISSION

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Chief  
Enforcement Bureau

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<sup>5</sup> 47 U.S.C. § 154(i).

<sup>6</sup> 47 CFR §§ 0.111, 0.311.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Cellco Partnership d/b/a Verizon Wireless
File No.: EB-SED-22-00033134
CD Acct. No.: 202332100007
FRN: 0003290673

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Cellco Partnership d/b/a Verizon Wireless, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether Verizon Wireless violated sections 1.1307(a) and 1.1312(a) of the Rules in connection with construction of wireless telecommunications facilities in Arizona, Indiana, Kentucky, Pennsylvania, and Tennessee. To resolve this matter, Verizon Wireless agrees to the terms and conditions below, including to implement a compliance plan and pay a \$950,000 civil penalty.

I. DEFINITIONS

- 2. For the purposes of this Consent Decree, the following definitions shall apply:
(a) “Act” means the Communications Act of 1934, as amended.
(b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
(d) “CD Acct No.” means account number 202332100007, associated with payment obligations described in paragraph 19 of this Consent Decree.
(e) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
(f) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Verizon Wireless is subject by virtue of its business activities, including but not limited to the Environmental Rules.
(g) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 13.
(h) “Covered Facilities” means wireless telecommunications facilities, including without limitation those that were the subject of the Investigation, involving a new build of one or more small cell antennae and associated equipment for use in Verizon Wireless’s network that must be assessed for compliance with the Environmental Rules.
(i) “Covered Vendor” means all third parties (including contractors and entities that Verizon Wireless refers to as “NEPA vendors”) that perform, supervise, oversee, or manage the performance of duties on Verizon Wireless’s behalf, that relate to

1 47 U.S.C. § 151 et seq.

Verizon Wireless’s responsibilities for Covered Facilities under the Environmental Rules, including assessing what regulatory approvals are necessary prior to construction of Covered Facilities, submitting the appropriate regulatory submissions prior to construction of such facilities, or identifying any required monitoring or special requirements during construction of such facilities.<sup>2</sup> Covered Vendors assessing National Environmental Policy Act (NEPA)<sup>3</sup> or National Historic Preservation Act (NHPA)<sup>4</sup> requirements for Verizon Wireless must have sufficient experience and expertise to perform those assessments in an accurate and timely manner and be able to identify any associated regulatory approvals or monitoring that are required. The person from each Covered Vendor responsible for the assessment of NEPA requirements for each Verizon Wireless Covered Facility must possess relevant expertise demonstrated by either (i) a Master of Science degree or Bachelors of Science degree in Environmental Science, Biology, or Environmental Planning, with experience implementing Federal agency NEPA requirements, or (ii) a NEPA certification from an accredited program recognized by The Council on Environmental Quality.<sup>5</sup> The person from each Covered Vendor responsible for the assessment of NHPA requirements for each Verizon Wireless Covered Facility must meet a minimum of one relevant Secretary of the Interior’s Professional Qualifications Standards.<sup>6</sup> Verizon Wireless will require that Covered Vendors complete compliance training programs as described in paragraph 13.

- (j) “Covered Employees” means all employees of Verizon Wireless who perform, supervise, oversee, or manage the performance of, duties that relate to Verizon Wireless’s responsibilities for Covered Facilities under the Environmental Rules, including, but not limited to, assessing what regulatory approvals are necessary prior to construction of Covered Facilities, submitting the appropriate regulatory submissions prior to construction of such facilities, or identifying any required monitoring or special requirements during construction of such facilities.<sup>7</sup> Covered Employees must complete the compliance training programs described in paragraph 13. In addition, the Covered Employees in Verizon Wireless’s centralized Network and Regulatory Compliance group<sup>8</sup> must also complete the National Preservation

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<sup>2</sup> The requirements covered by paragraphs 12-16 do not pertain to employees or vendors who perform, supervise, oversee, or manage the performance of duties that relate to Verizon Wireless’s responsibilities under the Commission’s radio frequency exposure rules and their work relates only to such rules. *See* 47 CFR §§ 1.1307(b), 1.1310.

<sup>3</sup> National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852 (1970) (codified as amended at 42 U.S.C. § 4321 *et seq.*).

<sup>4</sup> National Historic Preservation Act, Pub. L. No. 89-665, 80 Stat. 915 (1966) (codified as amended at 54 U.S.C. § 300101 *et seq.*).

<sup>5</sup> *See* The Council on Environmental Quality, *National Environmental Policy Act*, Training, <https://ceq.doe.gov/nepa-practice/training.html> (last visited Nov. 3, 2022) (listing accredited NEPA certification programs recognized by The Council on Environmental Quality).

<sup>6</sup> *See* Archeology and Historic Preservation; Secretary of the Interior’s Standards and Guidelines, Department of the Interior, National Park Service, 48 Fed. Reg. 44716 (Sept. 29, 1983), <https://www.doi.gov/pam/asset-management/historic-preservation/pqs> (last visited Nov. 3, 2022).

<sup>7</sup> *See supra* note 2.

<sup>8</sup> The Network and Regulatory Compliance group is the team within the Company that is responsible for regulatory filings, implementation, and compliance for wireless facility construction projects on a centralized, nationwide basis, as opposed to regional or market-specific duties. As defined herein, this term will include any successor group within Verizon Wireless that performs this function.

Institute Section 106 Basics<sup>9</sup> training and NEPA Compliance and Cultural Resources training,<sup>10</sup> as well as the compliance training programs described in paragraph 13.

- (k) “Effective Date” means the date by which both the Bureau and Verizon Wireless have signed the Consent Decree and the Bureau has released an Adopting Order.
- (l) “Environmental Rules” means sections 1.1301-1.1320, 17.4 of the Rules<sup>11</sup> and other Communications Laws implementing NEPA, and other environmental statutes, and the Rules implementing NHPA, including part 1, Appx. C, Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission,<sup>12</sup> and part 1, Appx. B, Nationwide Programmatic Agreement for the Collocation of Wireless Antennas.<sup>13</sup>
- (m) “Investigation” means the investigation commenced by the Bureau in File No. EB-SED-22-00033134 regarding whether Verizon Wireless violated the Environmental Rules.
- (n) “Operating Procedures” means the standard internal operating procedures and compliance policies established by Verizon Wireless to implement the Compliance Plan.
- (o) “Parties” means Verizon Wireless and the Bureau, each of which is a “Party.”
- (p) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (q) “SHPO” means State Historic Preservation Officer as set forth in the NHPA.
- (r) “THPO” means Tribal Historic Preservation Officer as set forth in the NHPA.
- (s) “Verizon Wireless” or “Company” means Cellco Partnership d/b/a Verizon Wireless and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest that offer wireless services.

## II. BACKGROUND

3. Under the Commission’s Environmental Rules, applicants and licensees are required to assess whether certain proposed facilities may significantly affect the environment, as defined in section 1.1307 of the Rules.<sup>14</sup> Section 1.1307(a) addresses facilities that may significantly affect the environment for which an Environmental Assessment (EA) must be prepared prior to construction, including, but not limited to those that: (i) may affect districts, sites, buildings, structures or objects that are listed, or

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<sup>9</sup> See National Preservation Institute, Section 106: The Basics for Planners, Project Managers, and Developers, <https://training.npi.org/courses/section106basics> (last visited Nov. 3, 2022).

<sup>10</sup> See National Preservation Institute, NEPA Compliance and Cultural Resources, <https://www.npi.org/seminars/laws-and-regulations/nepa-compliance-and-cultural-resources> (last visited Nov. 3, 2022).

<sup>11</sup> 47 CFR §§ 1.1301-1.1320, 17.4. For purposes of this Consent Decree, sections 1.1307(b) and 1.1310 of the Rules pertaining to radio frequency exposure are not at issue in this investigation. See *supra* note 2.

<sup>12</sup> 47 CFR pt. 1, Appx. C.

<sup>13</sup> 47 CFR pt. 1, Appx. B.

<sup>14</sup> 47 CFR § 1.1307.

eligible for listing, in the National Register of Historic Places;<sup>15</sup> (ii) may affect Native American religious sites; or (iii) will involve significant change in surface features.<sup>16</sup> In considering potential effects on historic properties, section 1.1307(a)(4) requires applicants to follow the prescribed procedures set forth in the rules of the Advisory Council,<sup>17</sup> as modified by the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (Collocation NPA)<sup>18</sup> and the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (Wireless Facilities NPA).<sup>19</sup> These agreements tailor and streamline the review and consultation procedures routinely required by the NHPA<sup>20</sup> and the implementing regulations issued by the Advisory Council.<sup>21</sup> Pursuant to section 1.1312 of the Rules, unless an applicant is exempt, these environmental review obligations expressly apply to wireless facilities for which no Commission authorization prior to construction is required.<sup>22</sup>

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<sup>15</sup> 47 CFR § 1.1307(a)(4). National Register refers to the National Register of Historic Places, which is maintained by the Secretary of the Interior's Office of the Keeper of the National Register. 47 CFR pt. 1, App. C, section II. (A)(10).

<sup>16</sup> 47 CFR § 1.1307.

<sup>17</sup> 36 CFR pt. 800.

<sup>18</sup> 47 CFR pt. 1, App. B; see *Wireless Telecommunications Bureau Announces Execution of Programmatic Agreement with respect to Collocating Wireless Antennas on Existing Structures*, Public Notice, 16 FCC Rcd 5574 (WTB 2001) (announcing execution of the NPA streamlining procedures for review of collocations of antennas under the NHPA), *recons. denied*, 20 FCC Rcd 4084 (WTB 2005).

<sup>19</sup> 47 CFR pt. 1, App. C; see *Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process*, WT Docket No. 03-128, Report and Order, 20 FCC Rcd 1073 (2004) (*NPA Report and Order*), clarified, 20 FCC Rcd 17995 (2005), *aff'd*, *CTIA-The Wireless Ass'n v. FCC*, 466 F.3d 105 (D.C. Cir. 2006) (announcing implementation of NPA and adopted rule changes); see also *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, WT Docket No. 19-250, Declaratory Ruling and Notice of Proposed Rulemaking, 35 FCC Rcd 5977, 6000-6003, paras. 45-50 (2020) (an applicant or licensee is not required to file an EA if a proposed facility may have an adverse effect on the environment, provided that the FCC and the applicant or licensee enters into a memorandum of agreement to mitigate the effects of the proposed facility).

<sup>20</sup> 54 U.S.C. § 300101 *et seq.* The NHPA requires that a federal agency consider the effects of its federal undertakings, including actions that it authorizes or approves, on historic properties prior to issuing federal licenses, permits, or approvals. See 54 U.S.C. §§ 306108, 300320. This review is commonly referred to as "Section 106 Review" because the provision requiring the review was originally enacted as section 106 of the NHPA. In considering such effects, the NHPA further requires the federal agency to consider the views of expert agencies. Specifically, the NHPA requires the federal agency to consider the views of the Advisory Council, which is the federal agency responsible for implementing the NHPA; the appropriate SHPO; and, if historic properties of religious or cultural significance to federally recognized Tribal nations or Native Hawaiian organizations may be affected, their representatives. See 54 U.S.C. §§ 302104, 302706, 306108, 304101. As authorized by the Advisory Council, the Commission's Environmental Rules delegate to its licensees, permittees, and applicants initial responsibility for identifying historic properties and evaluating the effects that their proposed facilities may have on such properties, but the Commission remains ultimately responsible for ensuring that the "Section 106 Review" occurs in accordance with applicable statutory and regulatory provisions, as well as for government-to-government consultation with federally recognized Tribal nations. See 47 CFR § 1.1307(a)(4); see also 36 CFR § 800.2(a)(3); *NPA Report and Order*, 20 FCC Rcd at 1076-77, para. 5.

<sup>21</sup> See 36 CFR pt. 800 (regulations issued by the Advisory Council that set forth the process through which federal agencies comply with their Section 106 Review duties).

<sup>22</sup> See 47 CFR § 1.1312.

4. Verizon Wireless is a general partnership, and it and its affiliates hold several thousand FCC licenses.<sup>23</sup> Verizon Wireless offers wireless services in the United States.<sup>24</sup> By early 2020, Verizon Wireless had been deploying newer technology, commonly referred to as small cells, in a variety of markets in the United States.<sup>25</sup> The small cell antennas can be mounted on infrastructure such as replacement streetlight poles, traffic control structures, or utility poles for the purpose of improving wireless service.<sup>26</sup> As early as June 2020, Verizon Wireless commenced construction on the small cell antennas at issue in the Investigation in several U.S. markets.<sup>27</sup>

5. Verizon Wireless reported to the Wireless Telecommunications Bureau (WTB) concerns regarding its compliance with the Environmental Rules for certain wireless facilities construction projects in Pennsylvania. WTB initially referred this matter to the Enforcement Bureau, and the Enforcement Bureau's Spectrum Enforcement Division (SED) opened the Investigation. On January 5, 2022, SED issued a Letter of Inquiry (LOI) to the Company, directing it to submit a sworn written response to a series of questions relating to its compliance with the Commission's Environmental Rules.<sup>28</sup> Verizon Wireless filed responses on February 9, 2022,<sup>29</sup> March 30, 2022,<sup>30</sup> May 13, 2022,<sup>31</sup> June 22, 2022,<sup>32</sup> and August 26, 2022.<sup>33</sup> The investigation revealed that Verizon Wireless commenced and/or completed construction of wireless facilities in Indiana, Kentucky, and Pennsylvania prior to or without completing the required Section 106 Review and Tribal notification processes.<sup>34</sup> The Investigation further revealed

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<sup>23</sup> Response to Letter of Inquiry, from David Haga, Associate General Counsel, Verizon Wireless, to Daniela Arregui, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, Response to Inquiry 1 at 11, Response to Inquiry 6 at 13-14 (Feb. 9, 2022) (on file in EB-SED-22-00033134) (LOI Response).

<sup>24</sup> See LOI Response, Response to Inquiry 6 at 13-14.

<sup>25</sup> See LOI Response, Response to Inquiry 14 at 19-22 (Harrisburg sites); Response to April 20, 2022 LOI, from David Haga, Associate General Counsel, Verizon Wireless, to Daniela Arregui, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, Response to Inquiry 2 at 11, n.7 (Nashville site), 15-16 (Boise sites), 16-18 (Fort Wayne sites), 19-20 (Evansville and Louisville sites), 20-21 (Phoenix-Mesa-Chandler sites), 23-25 (Wilkes-Barre sites) (May 13, 2022) (on file in EB-SED-22-00033134) (May 13, 2022 LOI Response).

<sup>26</sup> See LOI Response, Response to Inquiry 12 at 18-19 (Harrisburg sites); see also May 13, 2022 LOI Response, Response to Inquiry 2 at 12 (all other site locations).

<sup>27</sup> Between January 2021 and March 2022, construction on the small cell antennas within the statute of limitations in the Investigation occurred, however, construction commenced as early as June 2020. See generally LOI Response; May 13, 2022 LOI Response.

<sup>28</sup> Letter of Inquiry from Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Nakul Mate, Sr. Manager Network Regulatory, Verizon Wireless, and David Haga, Associate General Counsel, Verizon Wireless (Jan. 5, 2022) (on file in EB-SED-22-00033134).

<sup>29</sup> See generally LOI Response.

<sup>30</sup> Supplemental Response to Letter of Inquiry, from David Haga, Associate General Counsel, Verizon Wireless, to Daniela Arregui, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau (Mar. 30, 2022) (on file in EB-SED-22-00033134) (Supplemental Response).

<sup>31</sup> See May 13, 2022 LOI Response.

<sup>32</sup> Response to June 16, 2022 Follow-Up Questions to Letter of Inquiry, from David Haga, Associate General Counsel, Verizon Wireless, to Daniela Arregui, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau (on file in EB-SED-22-00033134) (June 22, 2022 Follow-Up LOI Response).

<sup>33</sup> Second Supplemental Response to Letter of Inquiry, from David Haga, Associate General Counsel, Verizon Wireless, to Daniela Arregui, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau (Aug. 26, 2022) (on file in EB-SED-22-00033134) (Second Supplemental Response).

<sup>34</sup> May 13, 2022 LOI Response, Response to Inquiry 2 at Response to Inquiry 2 at 16-18 (Fort Wayne sites), Response to Inquiry 2 at 19-20 (Louisville sites) Response to Inquiry 2 at 20 (Louisville and Evansville sites), Response to Inquiry 2 at 23-25 (Wilkes-Barre sites), Response to Inquiry 2 at 28-32 (Fort Wayne and Louisville sites), Response to Inquiry 2 at 40-41 (Wilkes-Barre sites).

that Verizon Wireless failed to comply with Tribal notification procedures by failing to meet requests by SHPO and Tribal representatives to have Tribal onsite monitoring of construction during all ground disturbance activity for wireless construction projects in Arizona and Tennessee.<sup>35</sup> Moreover, the Investigation revealed that some of the noncompliant construction was caused by miscommunication between Verizon Wireless employees and its third-party contractors; other violations were caused by a single Verizon Wireless employee that reviewed and managed project sites but lacked NEPA/NHPA expertise.<sup>36</sup> Verizon Wireless acknowledges that it is responsible for complying with applicable Commission rules and the actions and inactions of its Covered Employees and Covered Vendors, as described in this paragraph. Prior to and during the course of the Investigation, in order to comply with the Environmental Rules, Verizon Wireless states that it informed the applicable SHPOs and THPOs of construction projects completed without the required SHPO/THPO concurrence and began the process of removing any wireless facilities determined to have an adverse effect on historic streetscapes.<sup>37</sup> In order to prevent future miscommunication and errors by Verizon Wireless employees, Verizon Wireless revised its operational procedures to transition to its third-party vendors with NEPA/NHPA expertise (i.e., Covered Vendors) the performance of the initial review of all future project sites subject to the Environmental Rules.<sup>38</sup>

6. To settle this matter, Verizon Wireless and the Bureau entered into this Consent Decree and agree to the following terms and conditions.

### III. TERMS OF AGREEMENT

7. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

8. **Jurisdiction.** Verizon Wireless agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

9. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

10. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Verizon Wireless agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute any new proceeding on its own motion against Verizon Wireless concerning the matters that were the subject of the Investigation, or to set for hearing the question of Verizon Wireless's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.<sup>39</sup>

11. **Admission of Liability.** Verizon Wireless admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 10 herein, that it constructed facilities prior to receiving all required approvals and/or without required monitoring present in violation of the Environmental Rules.

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<sup>35</sup> See May 13, 2022 LOI Response, Response to Inquiry 2 at 11 (Nashville site), Response to Inquiry 2 at 20-21 (Phoenix-Mesa-Chandler sites), Response to Inquiry 2 at 35-37 (Phoenix-Mesa-Chandler sites).

<sup>36</sup> See *supra* notes 32-33.

<sup>37</sup> See generally LOI Response; May 13, 2022 LOI Response.

<sup>38</sup> See LOI Response at 10.

<sup>39</sup> See 47 CFR § 1.93(b).



12. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Verizon Wireless shall designate and maintain a single senior corporate manager who has specific responsibility for, and detailed experience and expertise in, NEPA and NHPA regulatory compliance. The person designated as the Compliance Officer must have the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Verizon Wireless complies with the terms and conditions of the Compliance Plan and this Consent Decree. The Compliance Officer shall have specific knowledge of and experience with the Environmental Rules necessary to discharge his or her duties under this Consent Decree prior to assuming his/her duties. The Compliance Officer must also complete the training curriculum offered by the National Preservation Institute, including but not limited to, Section 106 Basics,<sup>40</sup> the Utah State University Department of Environment and Society,<sup>41</sup> NEPA Compliance and Cultural Resources,<sup>42</sup> and complete the training identified in paragraphs 2 and 13 within the time frames specified therein.

13. **Compliance Plan.** For purposes of settling the matters set forth herein, Verizon Wireless agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Environmental Rules and with the terms and conditions of this Consent Decree. Verizon Wireless will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, Verizon Wireless shall establish Operating Procedures that all Covered Employees and Covered Vendors must follow to ensure Verizon Wireless's compliance with the Environmental Rules for Covered Facilities. Verizon Wireless's Operating Procedures shall include internal procedures and policies specifically designed to ensure that all environmental review and historic preservation obligations are fully satisfied prior to commencing construction, and during all subsequent construction phases, on any proposed Covered Facilities. These Operating Procedures shall include, but are not limited to:
  - i. Covered Vendors must first assess each proposed Covered Facility and complete relevant documentation to ensure that, prior to construction: (a) SHPO/THPO concurrences are received, and/or (b) Memoranda of Agreement<sup>43</sup> (MOAs) are executed to address adverse effects. This assessment must also include an analysis and determination as to whether the proposed wireless facility is categorically excluded from environmental

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<sup>40</sup> See National Preservation Institute, Section 106: The Basics for Planners, Project Managers, and Developers, <https://training.npi.org/courses/section106basics> (last visited Nov. 3, 2022).

<sup>41</sup> Required coursework must include NEPA 6260: "Cultural and Natural Resource Management" and NEPA 6380: "Managing NEPA Projects and Teams." See Utah State University, NEPA Certification Program, Quinney College of Natural Resources or Shipley course equivalents, as listed at <https://qcnr.usu.edu/nepa/curriculum> (last visited Nov. 3, 2022).

<sup>42</sup> See National Preservation Institute, NEPA Compliance and Cultural Resources, <https://www.npi.org/seminars/laws-and-regulations/nepa-compliance-and-cultural-resources> (last visited Nov. 3, 2022).

<sup>43</sup> If at any planning or construction stage, Verizon Wireless finds that a proposed undertaking would have an adverse effect on a historic property, or if the Commission finds that the proposed undertaking would have an adverse effect, Verizon Wireless must submit to the SHPO/THPO a plan designed to avoid, minimize, or mitigate the adverse effect, and to follow procedures in accordance with Stipulation VII.D of the NPA. See 47 CFR pt. 1, Appx. C., Stip. VII, D. Any resulting Memorandum of Agreement negotiated by Verizon Wireless, SHPO/THPO, and consulting parties shall be sent to the Commission for review and execution. See 47 CFR pt. 1, Appx. C., Stip. VII.D.4.

processing under section 1.1306(a)-(b) of the Rules,<sup>44</sup> or may have a significant environmental effect, pursuant to sections 1.1307(a) or (b) of the Rules,<sup>45</sup> thus requiring an EA. Covered Vendors must complete any NEPA review consistent with the WTB NEPA checklist<sup>46</sup> to identify whether any facility requires the preparation of an EA and, if so, complete and file EAs as required by section 1.1307(a) of the Rules.<sup>47</sup>

- ii. After Covered Vendors have completed their initial site assessment and any additional work for a Covered Facility, Verizon Wireless must apply a quality assurance and quality control process to help ensure that the assessments by Covered Vendors accurately identify all applicable environmental review and historic preservation obligations prior to construction. That process shall include Covered Employee(s) and/or Covered Vendor(s) not involved in the initial site assessment conducting regular, second-level review for a sample set of Covered Facilities.
- iii. As part of the review process identified in paragraph 13(a)(ii), Covered Employees or Covered Vendors not involved in initial site assessments must carefully review all environmental records for the proposed Covered Facility under review, including but not limited to: (a) SHPO/THPO concurrences, (b) TCNS filings, (c) SHPO/THPO communications, (d) Findings of No Significant Impact (FONSI), if applicable, (e) conditions established by the U.S. Fish and Wildlife Service or other reviewing agencies,<sup>48</sup> (f) elevation requirements associated with sites located in floodplains, to ensure compliance with any relevant condition(s),<sup>49</sup> (g) monitoring and mitigation obligation(s), and (h) shall direct and/or escalate any SHPO/THPO request to the appropriate Covered Employee and/or Covered Vendor for further action(s).
- iv. Covered Employees and/or Covered Vendors must engage in timely and equivalent levels of communication with affected SHPO/THPOs and WTB personnel to address SHPO/THPO requests and as otherwise necessary and appropriate during all construction phases.
- v. Verizon Wireless shall submit any monitoring requests from SHPOs or THPOs to [TCNSHELP@fcc.gov](mailto:TCNSHELP@fcc.gov) within five (5) calendar days of receiving such request, copying the entity making the monitoring request (e.g., Tribe or SHPO).

Verizon Wireless shall also develop a Compliance Checklist that describes the steps that a Covered Employee and Covered Vendor must follow to ensure compliance

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<sup>44</sup> See 47 CFR § 1.1306.

<sup>45</sup> See 47 CFR § 1.1307.

<sup>46</sup> See FCC Environmental Assessment Processing, NEPA and EA Checklists (June 24, 2022), <https://us-fcc.app.box.com/s/f2rbaxbka6ni4e30jwun4nms6lbk18kf> (last visited Nov. 7, 2022); see generally Competition and Infrastructure Policy Division, Wireless Telecommunication Bureau, Tower and Antenna Siting, <https://www.fcc.gov/wireless/bureau-divisions/competition-infrastructure-policy-division/tower-and-antenna-siting> (last visited Nov. 7, 2022).

<sup>47</sup> See 47 CFR § 1.1307.

<sup>48</sup> See, e.g., 36 CFR § 800.5(b); see also July 9, 2003 Delegation Letter from Susan H. Steiman, Associate General Counsel, FCC Office of General Counsel, to Steve Williams, Director, U.S. Fish and Wildlife Service, U.S. Department of the Interior, (available at <https://www.fcc.gov/file/14748/download> (last visited Nov. 16, 2022)).

<sup>49</sup> 47 CFR § 1.1307(a).

with the Environmental Rules, prior to and during all subsequent construction phases. The Compliance Checklist shall include, but not be limited to, the requirements in subsections (i)-(v), immediately above.

- (b) **Compliance Manual.** Within ninety (90) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees and Covered Vendors. The Compliance Manual shall explain the Environmental Rules and set forth the Operating Procedures that Covered Employees and Covered Vendors shall follow to help ensure Verizon Wireless's compliance with the Environmental Rules. Verizon Wireless shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Verizon Wireless shall distribute any revisions to the Compliance Manual promptly to all Covered Employees and Covered Vendors.
- (c) **Compliance Training Program.** Verizon Wireless shall establish and implement a Compliance Training Program on compliance with the Environmental Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees and Covered Vendors shall be advised of Verizon Wireless's obligation to report any noncompliance with the Environmental Rules under paragraph 14 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within one-hundred twenty (120) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within ninety (90) calendar days after the date such person becomes a Covered Employee. Verizon Wireless shall repeat compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness. Verizon Wireless will require that Covered Vendors take the Compliance Training Program as described above. Additionally, the Compliance Officer, all Covered Vendors, and all Covered Employees within the centralized Network and Regulatory Compliance group<sup>50</sup> shall be required to attend, virtually or in-person, the most recent workshop related to NEPA and NHPA compliance offered by the Commission between the Effective Date and the Termination Date; archived workshops are available on the Commission's website.<sup>51</sup> Covered Vendors and Covered Employees within the centralized Network and Regulatory Compliance group<sup>52</sup> should certify their attendance of such workshops to the Compliance Officer.

14. **Reporting Noncompliance.** Verizon Wireless shall report any material noncompliance with the Environmental Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of material noncompliance; (ii) the steps that Verizon Wireless has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Verizon Wireless has taken or will take to prevent the recurrence of any such

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<sup>50</sup> See *supra* note 8.

<sup>51</sup> See FCC, Archived Events, 2022 Workshop on Environmental Compliance and Historic Preservation Review Procedures (Sept. 13, 2022), <https://www.fcc.gov/news-events/events/2022/09/workshop-environmental-compliance-and-historic-preservation-review> (last visited Nov. 4, 2022). All FCC Archived Events are searchable and available online. See FCC, Archived Events, <https://www.fcc.gov/news-events/events/archived> (last visited Nov. 4, 2022).

<sup>52</sup> See *supra* note 8.

noncompliance. All reports of noncompliance shall be submitted to [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov), with a copy submitted electronically to [Daniela.Arregui@fcc.gov](mailto:Daniela.Arregui@fcc.gov) and [towercomments@fcc.gov](mailto:towercomments@fcc.gov).

15. **Covered Vendor and Employee Certification.** Verizon Wireless shall require each Covered Vendor conducting the initial assessment for a Covered Facility under paragraph 14(a)(i) to certify at the time the assessment is submitted that the Covered Vendor: (i) has utilized the Compliance Manual in completing the assessment for the Covered Facility project; and (ii) has reviewed each such project to ensure that it fully complies with the Environmental Rules. Verizon Wireless shall require Covered Employees and/or Covered Vendors to make the same certification for all Covered Facilities reviewed pursuant to the process identified in paragraph 13(a)(ii). All certifications pursuant to this paragraph will be submitted to and subject to further review by the Compliance Officer.

16. **Compliance Reports.** Verizon Wireless shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, six (6) months after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Verizon Wireless's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Environmental Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Verizon Wireless, stating that the Compliance Officer has personal knowledge that Verizon Wireless: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 14 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.<sup>53</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Verizon Wireless, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) identification of the Environmental Rules that apply to the instance of noncompliance along with any supporting information; (iii) the steps that Verizon Wireless has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iv) the steps that Verizon Wireless has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov), with a copy submitted electronically to [Daniela.Arregui@fcc.gov](mailto:Daniela.Arregui@fcc.gov).

17. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 1312 through 16 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

18. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act<sup>54</sup> against Verizon Wireless or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's

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<sup>53</sup> 47 CFR § 1.16.

<sup>54</sup> 47 U.S.C. § 208.

adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Verizon Wireless with the Communications Laws.

19. **Civil Penalty.** Verizon Wireless will pay a civil penalty to the United States Treasury in the amount of Nine Hundred and Fifty-Thousand Dollars (\$950,000) within thirty (30) calendar days of the Effective Date. Verizon Wireless acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1).<sup>55</sup> Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. Verizon Wireless shall send electronic notification of payment to [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov) on the date said payment is made. Payment of the Civil Penalty must be made by credit card using the Commission’s Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>56</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters “FORF”. In addition, a completed Form 159<sup>57</sup> or printed CORES form<sup>58</sup> must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).<sup>59</sup> For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number

<sup>55</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

<sup>56</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

<sup>57</sup> FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

<sup>58</sup> Information completed using the Commission’s Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

<sup>59</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

20. **Event of Default.** Verizon Wireless agrees that an Event of Default shall occur upon the failure by Verizon Wireless to pay the full amount of the Civil Penalty on or before the due dates specified in this Consent Decree.

21. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Civil Penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Civil Penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys’ fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Verizon Wireless.

22. **Waivers.** As of the Effective Date, Verizon Wireless waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. Verizon Wireless shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither Verizon Wireless nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Verizon Wireless shall waive any statutory right to a trial *de novo*. Verizon Wireless hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>60</sup> relating to the matters addressed in this Consent Decree.

23. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

24. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

25. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Verizon Wireless does not expressly consent) that provision will be superseded by such Rule or order.

26. **Successors and Assigns.** Verizon Wireless agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

27. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

28. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

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<sup>60</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

29. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

30. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

31. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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Loyaan A. Egal  
Chief  
Enforcement Bureau

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Date

\_\_\_\_\_  
Chris Miller  
Senior Vice President & Deputy General Counsel  
Verizon

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Date