



Preserving America's Heritage

Program Comment for Streamlining Section 106 Review for Wireless Communication Facilities Construction and Modification Subject to Review Under the FCC Nationwide Programmatic Agreement and/or the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas.

I. Background:

The Rural Utilities Service (RUS), the National Telecommunications and Information Administration (NTIA), and the Federal Emergency Management Agency (FEMA) provide financial assistance to applicants for various undertakings, including broadband deployment, which can involve the construction and placement of communications towers and antennas. RUS, NTIA, and FEMA must therefore comply with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f, and its implementing regulations at 36 C.F.R. part 800 (Section 106) for these undertakings. Some of those communications towers and antennas are also regulated by the Federal Communications Commission (FCC), and therefore undergo, or are exempted from, Section 106 review under the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the FCC (FCC Nationwide PA) and the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (FCC Collocation PA). The FCC Nationwide PA was executed by the FCC, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) on October 4, 2004. The FCC Collocation PA was executed by the FCC, ACHP, and NCSHPO on March 16, 2001. The undertakings addressed by the FCC Nationwide PA primarily include the construction and modification of communication towers. The undertakings addressed by the FCC Collocation PA include the collocation of communications equipment on existing structures and towers.

This Program Comment is intended to streamline Section 106 review of the construction and modification of communication towers and antennas for which FCC and RUS, NTIA, or FEMA share Section 106 responsibility.

Nothing in this Program Comment alters or modifies the FCC Nationwide PA or the FCC Collocation PA, or imposes Section 106 responsibilities on the FCC for elements of a RUS, NTIA, or FEMA undertaking that are unrelated to a communications facility within the FCC's jurisdiction or are beyond the scope of the FCC Nationwide PA.

II. Establishment and Authority:

This Program Comment was issued by the ACHP on October 23, 2009 pursuant to 36 C.F.R. § 800.14(e).

III. Date of Effect:

This Program Comment went into effect on October 23, 2009.

IV. Use of this Program Comment to Comply with Section 106 for the Effects of Facilities Construction or Modification Reviewed under the FCC Nationwide PA and/or the FCC Collocation PA:

RUS, NTIA and FEMA will not need to comply with Section 106 with regard to the effects of communication facilities construction or modification that has either undergone or will undergo Section 106 review, or is exempt from Section 106 review, by the FCC under the FCC Nationwide PA and/or the FCC Collocation PA. For purposes of this program comment, review under the FCC Nationwide PA means the historic preservation review that is necessary to complete the FCC's Section 106 responsibility for an undertaking that is subject to the FCC Nationwide PA.

When an RUS, NTIA, or FEMA undertaking includes both communications facilities construction or modification covered by the FCC Nationwide PA or Collocation PA and components in addition to such communication facilities construction or modification, RUS, NTIA, or FEMA, as applicable, will comply with Section 106 in accordance with the process set forth at 36 C.F.R. §§ 800.3 through 800.7, or 36 C.F.R. § 800.8(c), or another applicable alternate procedure under 36 C.F.R. § 800.14, but will not have to consider the effects of the communication facilities construction or modification component of the undertaking on historic properties. Whenever RUS, NTIA, or FEMA uses this Program Comment for such undertakings, RUS, NTIA or FEMA will apprise the relevant State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) of the use of this Program Comment for the relevant communication facilities construction or modification component.

V. Amendment:

The ACHP may amend this Program Comment after consulting with FCC, RUS, NTIA, FEMA, and other parties as appropriate, and publishing notice in the Federal Register to that effect.

VI. Sunset Clause:

This Program Comment will terminate on September 30, 2015, unless it is amended to extend the period in which it is in effect.

VII. Termination:

The ACHP may terminate this Program Comment by publication of a notice in the Federal Register thirty (30) days before the termination takes effect.