

APPENDIX C

PROPOSED RULES

Subpart I of Part 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

In §1.1307, revise the Note following paragraph (a)(4) to read as follows:

§1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

(a)* * *

(4)* * *:

NOTE: The National Register is updated and re-published in the FEDERAL REGISTER each year in February. To ascertain whether a proposed action may affect properties that are listed or eligible for listing in the National Register of Historic Places, an applicant shall follow the procedures set forth in the rules of the Advisory Council on Historic Preservation, 36 CFR Part 800, as modified and supplemented by the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, 66 FR 17554, and the Nationwide Programmatic Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission, __FR__.

* * * * *

ATTACHMENT 1

**NATIONWIDE PROGRAMMATIC AGREEMENT
for the
COLLOCATION OF WIRELESS ANTENNAS**

Executed by

**The FEDERAL COMMUNICATIONS COMMISSION,
the NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS
and
the ADVISORY COUNCIL ON HISTORIC PRESERVATION**

WHEREAS, the Federal Communications Commission (FCC) establishes rules and procedures for the licensing of wireless communications facilities in the United States and its Possessions and Territories; and,

WHEREAS, the FCC has largely deregulated the review of applications for the construction of individual wireless communications facilities and, under this framework, applicants are required to prepare an Environmental Assessment (EA) in cases where the applicant determines that the proposed facility falls within one of certain environmental categories described in the FCC's rules (47 C.F.R. § 1.1307), including situations which may affect historical sites listed or eligible for listing in the National Register of Historic Places ("National Register"); and,

WHEREAS, Section 106 of the National Historic Preservation Act (16 U.S.C. §§ 470 *et seq.*) ("the Act") requires federal agencies to take into account the effects of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment; and,

WHEREAS, Section 800.14(b) of the Council's regulations, "Protection of Historic Properties" (36 CFR § 800.14(b)), allows for programmatic agreements to streamline and tailor the Section 106 review process to particular federal programs; and,

WHEREAS, in August 2000, the Council established a Telecommunications Working Group to provide a forum for the FCC, Industry representatives, State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs), and the Council to discuss improved coordination of Section 106 compliance regarding wireless communications projects affecting historic properties; and,

WHEREAS, the FCC, the Council and the Working Group have developed this Collocation Programmatic Agreement in accordance with 36 CFR Section 800.14(b) to address the Section 106 review process as it applies to the collocation of antennas (collocation being defined in Stipulation I.A below); and,

WHEREAS, the FCC encourages collocation of antennas where technically and economically feasible, in order to reduce the need for new tower construction; and,

WHEREAS, the parties hereto agree that the effects on historic properties of collocations of antennas on towers, buildings and structures are likely to be minimal and not adverse, and that in the cases where an adverse effect might occur, the procedures provided and referred to herein are proper and sufficient, consistent with Section 106, to assure that the FCC will take such effects into account; and

WHEREAS, the execution of this Nationwide Collocation Programmatic Agreement will streamline the Section 106 review of collocation proposals and thereby reduce the need for the construction of new towers, thereby reducing potential effects on historic properties that would otherwise result from the construction of those unnecessary new towers; and,

WHEREAS, the FCC and the Council have agreed that these measures should be incorporated into a Nationwide Programmatic Agreement to better manage the Section 106 consultation process and streamline reviews for collocation of antennas; and,

WHEREAS, since collocations reduce both the need for new tower construction and the potential for adverse effects on historic properties, the parties hereto agree that the terms of this Agreement should be interpreted and implemented wherever possible in ways that encourage collocation; and

WHEREAS, the parties hereto agree that the procedures described in this Agreement are, with regard to collocations as defined herein, a proper substitute for the FCC's compliance with the Council's rules, in accordance and consistent with Section 106 of the National Historic Preservation Act and its implementing regulations found at 36 CFR Part 800; and

WHEREAS, the FCC has consulted with the National Conference of State Historic Preservation Officers (NCSHPO) and requested the President of NCSHPO to sign this Nationwide Collocation Programmatic Agreement in accordance with 36 CFR Section 800.14(b)(2)(iii); and,

WHEREAS, the FCC sought comment from Indian tribes and Native Hawaiian Organizations regarding the terms of this Nationwide Programmatic Agreement by letters of January 11, 2001 and February 8, 2001; and,

WHEREAS, the terms of this Programmatic Agreement do not apply on "tribal lands" as defined under Section 800.16(x) of the Council's regulations, 36 CFR § 800.16(x) ("Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities."); and,

WHEREAS, the terms of this Programmatic Agreement do not preclude Indian tribes or Native Hawaiian Organizations from consulting directly with the FCC or its licensees, tower companies and applicants for antenna licenses when collocation activities off tribal lands may affect historic properties of religious and cultural significance to Indian tribes or Native Hawaiian organizations; and,

WHEREAS, the execution and implementation of this Nationwide Collocation Programmatic Agreement will not preclude members of the public from filing complaints with the FCC or the Council regarding adverse effects on historic properties from any existing tower or any activity covered under the terms of this Programmatic Agreement.

NOW THEREFORE, the FCC, the Council, and NCSHPO agree that the FCC will meet its Section 106 compliance responsibilities for the collocation of antennas as follows.

STIPULATIONS

The FCC, in coordination with licensees, tower companies and applicants for antenna licenses, will ensure that the following measures are carried out.

I. DEFINITIONS

For purposes of this Nationwide Programmatic Agreement, the following definitions apply.

- A. "Collocation" means 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.
- B. "Tower" is any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.
- C. "Substantial increase in the size of the tower" means:
 - 1) The mounting of the proposed antenna on the tower would increase the existing 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, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
 - 2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
 - 3) The mounting of the proposed antenna would involve 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, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
 - 4) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

II. APPLICABILITY

- A. This Nationwide Collocation Programmatic Agreement applies only to the collocation of antennas as defined in Stipulation I.A, above.
- B. This Nationwide Collocation Programmatic Agreement does not cover any Section 106 responsibilities that federal agencies other than the FCC may have with regard to the collocation of antennas.

III. COLLOCATION OF ANTENNAS ON TOWERS CONSTRUCTED ON OR BEFORE MARCH 16, 2001

A. An antenna may be mounted on an existing tower constructed on or before March 16, 2001 without such collocation being reviewed under the consultation process set forth under Subpart B of 36 CFR Part 800, unless:

1. The mounting of the antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.C, above; or
2. The tower has been determined by the FCC to have an effect on one or more historic properties, unless such effect has been found to be not adverse through a no adverse effect finding, or if found to be adverse or potentially adverse, has been resolved, such as through a conditional no adverse effect determination, a Memorandum of Agreement, a programmatic agreement, or otherwise in compliance with Section 106 and Subpart B of 36 CFR Part 800; or
3. The tower is the subject of a pending environmental review or related proceeding before the FCC involving compliance with Section 106 of the National Historic Preservation Act; or
4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

IV. COLLOCATION OF ANTENNAS ON TOWERS CONSTRUCTED AFTER MARCH 16, 2001

A. An antenna may be mounted on an existing tower constructed after March 16, 2001 without such collocation being reviewed under the consultation process set forth under Subpart B of 36 CFR Part 800, unless:

1. The Section 106 review process for the tower set forth in 36 CFR Part 800 and any associated environmental reviews required by the FCC have not been completed; or
2. The mounting of the new antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.C, above; or
3. The tower as built or proposed has been determined by the FCC to have an effect on one or more historic properties, unless such effect has been found to be not adverse through a no adverse effect finding, or if found to be adverse or potentially adverse, has been resolved, such as through a conditional no adverse effect determination, a Memorandum of Agreement, a programmatic agreement, or otherwise in compliance with Section 106 and Subpart B of 36 CFR Part 800; or

4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

V. COLLOCATION OF ANTENNAS ON BUILDINGS AND NON-TOWER STRUCTURES OUTSIDE OF HISTORIC DISTRICTS

A. An antenna may be mounted on a building or non-tower structure without such collocation being reviewed under the consultation process set forth under Subpart B of 36 CFR Part 800, unless:

1. The building or structure is over 45 years old;¹ or
2. The building or structure is inside the boundary of a historic district, or if the antenna is visible from the ground level of the historic district, the building or structure is within 250 feet of the boundary of the historic district; or
3. The building or non-tower structure is a designated National Historic Landmark, or listed in or eligible for listing in the National Register of Historic Places based upon the review of the licensee, tower company or applicant for an antenna license; or
4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

B. Subsequent to the collocation of an antenna, should the SHPO/THPO or Council determine that the collocation of the antenna or its associated equipment installed under the terms of Stipulation V has resulted in an adverse effect on historic properties, the SHPO/THPO or Council may notify the FCC accordingly. The FCC shall comply with the requirements of Section 106 and 36 CFR Part 800 for this particular collocation.

VI. RESERVATION OF RIGHTS

Neither execution of this Agreement, nor implementation of or compliance with any term herein shall operate in any way as a waiver by any party hereto, or by any person or entity complying herewith or affected hereby, of a right to assert in any court of law any claim, argument or defense regarding the validity or interpretation of any provision of the National Historic Preservation Act (16 U.S.C. §§ 470 *et seq.*) or its implementing regulations contained in 36 CFR

¹ Suitable methods for determining the age of a building include, but are not limited to: (1) obtaining the opinion of a consultant who meets the Secretary of Interior's Professional Qualifications Standards (36 CFR Part 61) or (2) consulting public records.

Part 800.

VII. MONITORING

A. FCC licensees shall retain records of the placement of all licensed antennas, including collocations subject to this Nationwide Programmatic Agreement, consistent with FCC rules and procedures.

B. The Council will forward to the FCC and the relevant SHPO any written objections it receives from members of the public regarding a collocation activity or general compliance with the provisions of this Nationwide Programmatic Agreement within thirty (30) days following receipt of the written objection. The FCC will forward a copy of the written objection to the appropriate licensee or tower owner.

VIII. AMENDMENTS

If any signatory to this Nationwide Collocation Programmatic Agreement believes that this Agreement should be amended, that signatory may at any time propose amendments, whereupon the signatories will consult to consider the amendments. This agreement may be amended only upon the written concurrence of the signatories.

IX. TERMINATION

A. If the FCC determines that it cannot implement the terms of this Nationwide Collocation Programmatic Agreement, or if the FCC, NCSHPO or the Council determines that the Programmatic Agreement is not being properly implemented by the parties to this Programmatic Agreement, the FCC, NCSHPO or the Council may propose to the other signatories that the Programmatic Agreement be terminated.

B. The party proposing to terminate the Programmatic Agreement shall notify the other signatories in writing, explaining the reasons for the proposed termination and the particulars of the asserted improper implementation. Such party also shall afford the other signatories a reasonable period of time of no less than thirty (30) days to consult and remedy the problems resulting in improper implementation. Upon receipt of such notice, the parties shall consult with each other and notify and consult with other entities that are either involved in such implementation or that would be substantially affected by termination of this Agreement, and seek alternatives to termination. Should the consultation fail to produce within the original remedy period or any extension, a reasonable alternative to termination, a resolution of the stated problems, or convincing evidence of substantial implementation of this Agreement in accordance with its terms, this Programmatic Agreement shall be terminated thirty days after notice of termination is served on all parties and published in the Federal Register.

C. In the event that the Programmatic Agreement is terminated, the FCC shall advise its licensees and tower construction companies of the termination and of the need to comply with any applicable Section 106 requirements on a case-by-case basis for collocation activities.

X. ANNUAL MEETING OF THE SIGNATORIES

The signatories to this Nationwide Collocation Programmatic Agreement will meet on or about September 10, 2001, and on or about September 10 in each subsequent year, to discuss the effectiveness of this Agreement, including any issues related to improper implementation, and to discuss any potential amendments that would improve the effectiveness of this Agreement.

XI. DURATION OF THE PROGRAMMATIC AGREEMENT

This Programmatic Agreement for collocation shall remain in force unless the Programmatic Agreement is terminated or superseded by a comprehensive Programmatic Agreement for wireless communications antennas.

Execution of this Nationwide Programmatic Agreement by the FCC, NCSHPO and the Council, and implementation of its terms, evidence that the FCC has afforded the Council an opportunity to comment on the collocation as described herein of antennas covered under the FCC's rules, and that the FCC has taken into account the effects of these collocations on historic properties in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800.

FEDERAL COMMUNICATIONS COMMISSION

_____ **Date:** _____

ADVISORY COUNCIL ON HISTORIC PRESERVATION

_____ **Date:** _____

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

_____ **Date:** _____

ATTACHMENT 2**LIST OF FCC ACTIVITIES COVERED BY THE
NATIONWIDE PROGRAMMATIC AGREEMENT**

This list, including the description of activities and services, is illustrative and is not exclusive. The Federal Communications Commission may determine in the future that additional communications facilities/activities are Undertakings for purposes of Section 106 or that certain covered facilities on this list no longer constitute Undertakings for purposes of Section 106.

- Registration of Towers 200 feet or higher or within glide slope of airport
- New or Modified Construction Permit, AM, FM, TV (Broadcast Radio and Television)
- New or Modified Construction Permit, International or Experimental Broadcast Station¹
- New or Modified Construction Permit, low power FM Station (“Microbroadcasters” with power of 10 to 100 watts)
- New or Modified Construction Permit, Non-Commercial and Educational Station (Educational and Public Radio and Television)
- New or Modified Construction Permit, Low Power TV or TV translator (Low Power Broadcast Television or Television translator (repeater stations)²
- New or Modified Construction Permit, Low Power FM or FM translator (FM Translator/Booster Stations)³
- New or Modified Construction Permit, Multichannel Multipoint Distribution Service, MMDS (Wireless Cable/Wireless Internet)
- New or Modified Construction Permit, Instructional Television Fixed Services, ITFS (educational television transmitted to one or more fixed receiving locations)
- New or Modified Construction Permit, Broadcast Auxiliary Station (Broadcast Auxiliary Microwave stations are used for relaying broadcast television or radio signals. They can be used to relay signals from the studio to the transmitter, or between two points, such as a main studio and an auxiliary studio.)
- Application for New or Modified Cable Access Relay Station (microwave) (CARS) (used to transmit and distribute signal in cable network)

¹ International stations are what are commonly known as “short-wave” radio stations designed to be received in other countries; “experimental stations” are stations whose operation-restricted to non-profit operation only - will test new technologies or otherwise contribute to scientific or engineering knowledge.

² Translator Stations do not originate programming but simply retransmit the signal of the primary station into areas where its signal may be blocked by terrain or other obstructions.

³ Booster Stations serve purposes similar to translator stations.

- Satellite Earth Station (3-9 meter antennas licensed to transmit/receive programming or data to satellites)
- Terrestrial Repeaters for Satellite Digital Audio Radio System (DARS) (ground-based repeater systems associated with audio subscription service delivered by satellite; service rules proposed but not yet finalized)
- New or Modified Authorization for Commercial Mobile Radio Service, *e.g.*, cellular. (Licensed on a geographic area basis or modified site-by-site basis. Consistent with environmental rules, local zoning restrictions, and other applicable laws and regulations, licensees and tower companies may build towers anywhere within the licensed geographic area or established interference contour.) The types of services are:
 - Broadband Personal Communication Service, PCS (Digital Wireless Telephone)
 - Specialized Mobile Radio Service, SMR (Digital or Analog Wireless Telephone or Dispatch)
 - Cellular Radio Service (Digital or Analog Wireless Telephone)
 - Public Coast Radio Service (Marine Wireless Telephone)
 - Narrowband PCS (wireless messaging services)
 - Commercial Paging (wireless messaging services)
 - Wireless Communications Service (radiocommunications that may provide fixed, mobile, radiolocation or satellite communication services)
 - 220 MHz Service (wireless dispatch radio or data transmission)
 - 218-219 Service (wireless interactive video or data transmission)
 - 700 MHz (Digital Wireless or Wireless Internet - no licensees yet until future auction)
 - 700 MHz Guardband (Mobile Wireless Services for commercial use or for business internal use)
 - 4.9 GHz (Digital Wireless or Wireless Internet – no licensees yet until future auction)
 - Location Monitoring Service, LMS (mobile wireless services to monitor traffic patterns)
- New or Modified Authorization for Fixed Wireless Services (Licensed on a geographic area basis. Consistent with environmental rules, local zoning restrictions, and other applicable laws and regulations, licensees and tower companies may build towers anywhere within the licensed geographic area). The types of services are:
 - 39 GHz (Point-to-point or point-to-multipoint fixed wireless services)
 - 24 GHz (Point-to-point or point-to-multipoint fixed wireless services)
 - Local Multipoint Distribution Service, LMDS (Point-to-point or point-to-multipoint fixed wireless services)
 - Multiple Address System, MAS (point-to-point fixed wireless data services)
- New or Modified Authorization for Site-Specific Mobile Radio (mobile voice or data transmission from towers or antennas at Commission-specified coordinates). The types of services are:
 - Public Safety (*e.g.*, police and fire) (mobile analog services using towers and antennas)

Business Radio (*e.g.*, utilities) (mobile analog wireless services used to transmit/receive voice and data for internal business use)

Paging (wireless messaging services)

Dispatch Radio (*e.g.*, taxicab) (mobile analog wireless services used to transmit/receive voice on a dispatch radio system)

Air-Ground Radio (wireless systems where airphones use ground-based towers or antennas)

- New or Modified Authorization, Fixed Microwave (voice or data transmission from towers or antennas at fixed locations at Commission-specified coordinates).
- New or Modified Authorization, Amateur Services (Ham Radio)

ATTACHMENT 3**New Tower Submission Form (Form NT, Cover Sheet, and Instructions)****Instructions for New Tower Submission Form (Form NT)**

The Telecommunications Working Group of the Advisory Council on Historic Preservation¹ has developed this Submission Packet to assist carriers, broadcast companies, tower companies, cultural resource professionals and others involved with communications tower and antenna projects with preparation of the documentation required by the Section 106 historic preservation review process. Applicants may compare this New Tower Submission Packet (Form NT) with the Collocation Submission Packet (Form CO) (Attachment 4 to the Nationwide Agreement) to understand the similarities and differences.

As explained in the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Undertakings Approved by the Federal Communications Commission ("Nationwide Agreement"), the Applicant should submit the New Tower Submission Packet (Form NT) only:

1. Where the Undertaking is not exempt from Section 106 review under the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas ("Collocation Agreement") or the Nationwide Agreement; and
2. Where the Applicant proposes to construct a new Tower² rather than collocate its antenna(s) on an existing Tower or non-Tower structure.

Form NT should be completed by or on behalf of the Applicant and submitted to the State Historic Preservation Office ("SHPO") and/or Tribal Historic Preservation Office ("THPO") prior to the construction of a new Tower that requires SHPO/THPO review under Section 106 of the National Historic Preservation Act ("NHPA"), the regulations of the Advisory Council on Historic Preservation ("Council"), the Collocation Agreement, this Nationwide Agreement or any other programmatic agreement that may be applicable. Submission of a complete and accurate Form NT (with the supporting documentation requested in the Form) should be sufficient to enable the SHPO/THPO to complete its review of the Applicant's findings and determinations pursuant to Section VII of the Nationwide Agreement.

¹ The Telecommunications Working Group (TWG), which includes representatives from industry, government, historic preservation, tribal, and other groups, was formed in 2000 by the Advisory Council on Historic Preservation to support and streamline the Section 106 process in its application to Undertakings.

² A "Tower" is any structure built for the sole or primary purpose of supporting Commission-licensed antennas and their associated facilities.

Although these Instructions and the attached Form NT are intended to provide guidance on the Section 106 process, they are not authoritative and, in the event of any inconsistency, or other conflict, the sources referenced above shall apply.

Exclusions

Neither the Form NT nor the Form CO need be submitted for any collocation where Section 106 review is not required under the Collocation Agreement, the Nationwide Agreement, or any future programmatic agreement that excludes undertakings from such review.

I. Exclusions Under Nationwide Agreement Applicable to New Towers

A. Section III of the Nationwide Agreement identifies a number of situations where review of a proposed undertaking under Section 106 is not necessary.

B. In situations covered by Section III, Applicants should not provide a Submission Packet to the SHPO/THPO.

C. Where an undertaking is to be completed but no submission is made to the local SHPO/THPO because of the availability of one or more exclusions, the Applicant should retain in its files documentation of the basis for each exclusion should a question arise as to the Applicant's compliance with Section 106.

Upon provision to the SHPO/THPO of a Submission Packet (Form NT), the Applicant is deemed to have made a request for review of a finding(s), determination(s), or both for purposes of Sections VI and VII of this Nationwide Agreement and the review period specified in Section VII of this Nationwide Agreement will begin.

Cover Sheet for New Tower Submission Form (Form NT) [separate page]

1. Key findings and determinations:
 - a. No Historic Properties in APE
 - b. "No effect" on Historic Properties in APE
 - c. "No adverse effect" on Historic Properties in APE
 - d. "Adverse effect" on Historic Properties in APE
2. Full name of Applicant with name, address, e-mail address, and telephone number of Applicant's contact person(s) on this project.
3. Full name of Consultant or other representative acting on behalf of Applicant with name, address, e-mail address, and telephone number of contact person(s) on this project. Attach summary of Consultant's qualifications.

4. Project name and any project number(s) assigned by Applicant, Consultant, or others.
5. Project Status:
 - a. Construction planned but not yet commenced;
 - b. Construction commenced on [date] but not yet completed;
 - c. Other _____.
6. Provide exact location of project. To the extent reasonably available, the location information should include the street address, longitude and latitude, and a legal description of the location.

Elements of Collocation Submission Packet (Form NT) [separate page]

1. Contact Information

Date: _____

Name of Applicant/ Company: _____

Address of Applicant: _____

Phone: _____ Fax: _____

Applicant's Representative/Consultant: _____

Title: _____

Address: _____

Phone: _____ Fax: _____

Email Address: _____

Applicant will be:

New Tower Owner Carrier using New Tower Other (explain)³

For additional information, SHPO/THPO should contact:

Applicant Applicant's Representative Other (explain)

Correspondence should be addressed to:

Applicant Applicant's Representative Other (explain)

³ PCIA suggests deleting the box for "Carrier using New Tower."

2. Site Information

a. Site name and Identification Number: _____

Identification Number above is:

temporary reference number used by consultant, or

permanent reference number used to identify the tower

other (explain): _____

b. Street Address of Site: _____

City: _____ State: _____ Zip: _____

County: _____ Township: _____

c. Nearest Cross Roads: _____ / _____

d. Site Universal Transverse Mercator (UTM) Coordinates or Latitude/Longitude (if available).

e. Proposed tower height: _____

f. Tower type:

guyed tower monopole self-supporting other

g. Type of tower lighting, if any _____

h. Describe surrounding land use of leased or owned property and any access roads, utility lines, or other easements related to the site.

3. Initiating Section 106 Consultation

a. **State and/or Tribal Historic Preservation** – List SHPO/THPO with jurisdiction over this project.

- i. Could this project potentially affect Historic Properties located on tribal lands? If so, identify tribes contacted. If not, explain how this determination was made.
- ii. Could this project potentially affect Historic Properties located off tribal lands to which an Indian tribe or Native Hawaiian organization attaches religious and cultural significance? If so, identify tribes contacted. If not, explain how this determination was made.

- b. Public Involvement** – Because applicable rules require notice to the public of undertakings and an opportunity to comment that reflects the nature and complexity of the undertaking, describe measures taken to obtain public involvement in this project.
- c. Local Government** – Has local government been contacted as a consulting party pursuant to Section V.A. of the Nationwide Agreement? If so, list local government agencies contacted. If not, explain why this has not occurred.
- d. Additional Consulting Parties** – List any additional consulting parties (individuals or organizations with demonstrated interest in the project) that have been identified and any that have been contacted.

4. Identification of Historic Properties

Attach continuation sheets as necessary; include key locations of all Historic Properties to maps and key descriptions of Historic Properties to photos.

- a. Area of Potential Effects (APE)** – Describe the APE for the proposed project and how this APE was determined, see VI.B of the Nationwide Agreement.
- b. Previously Identified Historic Properties**
 - i. Are there any National Historic Landmarks located within the APE? If so, list the name and address of each property.
 - ii. Are there any properties or historic districts located within the APE that are listed in the National Register of Historic Places? If so, list the name and address of each property and the source of survey information.
 - iii. Are there any properties or historic districts located within the APE that have been determined eligible for listing in the National Register of Historic Places? If so, list the name and address of each property and the source of survey information.
 - iv. If Applicant surveyed any previously evaluated historical sites due to the passage of time, changing perceptions of significance, or incomplete prior evaluations, identify and describe these properties. List the name and address/vicinity of each property, the site inventory number, and the source of survey information. Contact SHPO/THPO regarding previously surveyed archeological sites.

c. Field Survey Results

- i. Evaluate the eligibility of any potentially eligible historic districts, sites, buildings, structures, or objects that have not previously been identified that are located within the APE for the National Register of Historic Places and provide your eligibility assessment. For each property assessed, please reference Photos and Site Location Map. For identified properties, list the name and address of each property, the site inventory number, and the name of the consultant who performed the evaluation.
- ii. Are there any newly identified archaeological sites located within the APE? If so, evaluate their potential eligibility for the National Register of Historic Places and provide Applicant's assessment of whether additional survey work is necessary. If Applicant has already completed an archaeological survey, please include the survey report with this checklist. For each site assessed, please reference Photos and Site Location Map. For identified properties, list the name and address of each property, the site inventory number, and the name of the consultant who performed the evaluation.
- iii. Describe surrounding topography including modern intrusions, existing buffering, and vegetation. Describe any previous ground disturbance.

d. Determination

- Historic Properties Exist Within the APE.** Applicant should continue to Section 5, *Determination of Effect*.
- No Historic Properties Exist Within the APE.** Applicant need not complete Section 5.

5. Determination of Effect

Use the Criteria of Adverse Effect and the guidelines found at Sections VI. A and VI. B. of the Nationwide Agreement as the basis for Applicant's assessment. **Check one box below and attach narrative** that explains the basis for your determination. The documentation compiled through the use of this checklist should be sufficient for reviewing parties to clearly understand the basis for determinations made about potential project effects on Historic Properties.

- "No Historic Properties Affected"** means that there are Historic Properties present within the APE, but the undertaking will have no effect on them.
- "No Adverse Effect"** means that there are Historic Properties within the Area of Potential Effects, but that the effects of the undertaking do not meet the Criteria of

Adverse Effect. Explain how each criterion of Adverse Effect does not apply or how the Adverse Effect is being avoided.

“Adverse Effect” means that there are Historic Properties within the Area of Potential Effects, the Applicant has applied the Criteria of Adverse Effect, and found that the undertaking will have an adverse effect on one or more Historic Properties that are eligible for or listed in the National Register of Historic Places. The following questions should be answered in the narrative:

1. Which Historic Properties will be adversely affected? Explain how.
2. Has the SHPO/THPO addressed Adverse Effects in previous communications?
3. What alternatives were considered that might avoid, minimize, or mitigate adverse effects? What conclusion was reached regarding the feasibility of each alternative?
4. How will the public be informed of developments regarding the Section 106 consultation process?
5. What mitigation options are proposed by the Applicant to resolve the adverse effect of the project?

6. Exhibits

a. Photos (Number all photos and key the photos to Photo Map)

- i. Color photos showing view from proposed tower site in all compass directions, labeled with N/S/E/W view from the tower. Photo coverage of 360 degrees is recommended. If surveyed properties are visible from the proposed tower site, include additional views from site towards Historic Properties and indicate distance between the site and each property. For all photos, label compass direction and date photos were taken.
- ii. Color photos of existing site conditions. Key photos to description of topography and previous ground disturbances in Field Survey section.
- iii. Color photos of potentially eligible Historic Properties that are reasonably available within the Area of Potential Effects. Include photos of all buildings greater than 45 years old. In urban areas where there are large numbers of buildings greater than 45 years old that do not appear to meet the National Register Criteria, Applicant may include a limited number of representative streetscape photos. However, in all cases Applicant must provide sufficient photos in urban areas to support its eligibility assessment and effect determination.

b. Maps

- i. Topographic Map – 7.5-minute quad map showing location of proposed tower site. Show Area of Potential Effects. If map is copied from original, include key with name of quad and date.
- ii. Site Location Map – Mark location of proposed tower site and any new access roads required. Show Area of Potential Effects. Applicant must also show the location of any surveyed Historic Properties. Provide key for any symbols, colors, identifiers used.
- iii. Photo Map – Applicant may duplicate the Site Location Map (without the Historic Properties). Mark where all photos were taken and indicate direction of view.

ATTACHMENT 4**Collocation Submission Packet (Form CO, Cover Sheet, and Instructions)****Instructions for Collocation Submission Packet (Form CO)**

The Telecommunications Working Group of the Advisory Council on Historic Preservation (Council)¹ has developed this Submission Packet to assist carriers, broadcast companies, tower companies, cultural resource professionals and others involved with communications tower and antenna projects with preparation of the documentation required by the Section 106 historic preservation review process. Applicants may compare this Collocation Submission Packet (Form CO) with the New Tower Submission Packet (Form NT) (Attachment 3 to the Nationwide Agreement) to understand the similarities and differences.

As explained in the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Undertakings approved by the Federal Communications Commission ("Nationwide Agreement"), the Applicant should submit the Collocation Submission Packet (Form CO) only:

1. Where the proposed undertaking is not exempt from Section 106 review under the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas ("Collocation Agreement") or the Nationwide Agreement; and
2. Where the Applicant proposes to collocate one or more antennas on an existing Tower² or a non-Tower structure.

Form CO should be completed by or on behalf of the Applicant and submitted to the State Historic Preservation Office ("SHPO") and/or Tribal Historic Preservation Office ("THPO") prior to any collocation that requires SHPO/THPO review under Section 106 of the National Historic Preservation Act ("NHPA"), the regulations of the Advisory Council on Historic Preservation ("Council"), the Collocation Agreement, this Nationwide Agreement, or any other programmatic agreement that may be applicable. Submission of a complete and accurate Form CO (with the supporting documentation requested in the Form) should be sufficient to enable the SHPO/THPO to complete its review of the Applicant's findings and determinations pursuant to Section VII of the Agreement.

¹ The Telecommunications Working Group (TWG), which includes representatives from industry, government, historic preservation, tribal, and other groups, was formed in 2000 by the Advisory Council on Historic Preservation to support and streamline the Section 106 process in its application to Undertakings.

² A "Tower" is any structure built for the sole or primary purpose of supporting Commission-licensed antennas and their associated facilities.

Although these Instructions and the attached Form CO are intended to provide guidance on the Section 106 process, they are not authoritative and, in the event of any inconsistency, or other conflict, the sources referenced above shall apply.

Exclusions

Neither the Form CO nor the Form NT need be submitted for any proposed collocation where Section 106 review is not required under the Collocation Agreement, this Nationwide Agreement, or any future programmatic agreement that excludes undertakings from such review.

I. Exclusions Under Nationwide Agreement Applicable to Collocations

A. Section III of the Nationwide Agreement identifies a number of situations where review of a proposed undertaking under Section 106 is not necessary.

B. In situations covered by Section III, Applicants should not provide a Submission Packet to the SHPO/THPO.

C. Where an undertaking is to be completed but no submission is made to the local SHPO/THPO because of the availability of one or more exclusions, the Applicant should retain in its files documentation of the basis for each exclusion should a question arise as to the Applicant's compliance with Section 106.

Upon provision to the SHPO/THPO of a Submission Packet (Form CO), the Applicant is deemed to have made a request for review of a finding(s), determination(s), or both for purposes of Sections VI and VII of this Nationwide Agreement and the review period specified in Section VII of this Nationwide Agreement will begin.

II. Exclusion under the Collocation Agreement

A. Pre- March 16th Towers. For Towers built *on or before* March 16, 2001, the Applicant must consider the following:

1. Will the proposed collocation result in a "substantial increase"³ in the size of the tower?

³ A "substantial increase" in the size of a tower generally occurs when a collocation, would involve: 1) an increase in the existing height of the tower by more than 10%; 2) the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; 3) 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; or 4) excavation outside the current tower site. For a more complete definition, see the Collocation Agreement, Section I.C. and the January 10, 2002, Commission Fact Sheet, "Antenna Collocation Programmatic Agreement Collocation Fact Sheet" ("Collocation Fact Sheet").

2. Is the tower subject to a pending environmental review or proceeding before the FCC involving NHPA compliance?
3. Has the tower been determined by the FCC to have an adverse effect that has not been resolved through a Memorandum of Agreement (MOA), Programmatic Agreement (PA), the Nationwide Agreement, or other form of agreement?
4. Has the proposed collocation licensee or tower owner received notification from the FCC that the FCC has received a complaint that the collocation will have an adverse effect on one or more Historic Properties?

B. Post-March 16th Towers. For Towers built **after March 16, 2001**, the Applicant must consider the following:

1. Has Section 106 review process for the tower and any associated environmental reviews required by the FCC been completed?
2. Will the proposed collocation result in a "substantial increase" in the size of the tower?
3. Has the tower been determined by the FCC to have an adverse effect that has not been resolved through a Memorandum of Agreement (MOA), Programmatic Agreement, the Nationwide Agreement, or other form of agreement?
4. Has the proposed collocation licensee or tower owner received notification from the FCC that the FCC has received a complaint that the collocation will have an adverse effect on one or more Historic Properties?

C. Collocations of Antennas on Buildings and Non-Tower Structures. For antennas to be mounted on buildings or other non-Tower structures, the Applicant should review Section V. of the Collocation Agreement and the Collocation Fact Sheet for applicable exclusions from Section 106 review.

If the answer to all of the applicable questions above is "No," then it is not necessary to provide a Submission Packet to the local SHPO/THPO. The proposed collocation is exempt from Section 106 review process pursuant to the Collocation Agreement or this Nationwide Agreement.

Where an undertaking is to be completed but no submission is made to the local SHPO/THPO because of the availability of one or more exclusions, the Applicant should retain in its files documentation of the basis for each exclusion should a question arise as to the Applicant's compliance with Section 106.

Cover Sheet for Collocation Submission Packet (Form CO) [separate page]

1. Key findings and determinations:
 - a. No Historic Properties in APE
 - b. "No effect" on Historic Properties in APE

- c. "No adverse effect" on Historic Properties in APE
d. "Adverse effect" on Historic Properties in APE.
2. Full name of Applicant with name, address, e-mail address, and telephone number of Applicant's contact person(s) on this project.
 3. Full name of Consultant or other representative acting on behalf of Applicant with name, address, e-mail address, and telephone number of contact person(s) on this project. Attach summary of consultant's qualifications.
 4. Project name and any project number(s) assigned by Applicant, Consultant, or others.
 5. Project Status:
 - a. Installation planned but not yet commenced;
 - b. Other _____.
 6. Provide exact location of project. To the extent reasonably available, the location information should include the street address, longitude and latitude, and a legal description of the location.

Elements of Collocation Submission Packet (Form CO) [separate page]

Background.

- a. Structure. This Form CO pertains to collocation of antenna(s) on: A Tower or A Non-Tower Structure (check one)
- b. Completion. Date Tower/Non-Tower Structure (cross out one) constructed _____
- c. Section 106 Review. Has Tower or non-Tower structure completed Section 106 review? If so, list the date completed and SHPO/THPO reference number. If structure has been exempted from Section 106 review through a programmatic agreement, describe the basis for the exemption.

1. Contact Information

Date: _____

Name of Applicant/ Company: _____

Address of Applicant: _____

Phone: _____ Fax: _____

Applicant's Representative/Consultant: _____

Title: _____

Address: _____

Phone: _____ Fax: _____

Email Address: _____

Applicant will be:

- Tower Owner
- Non-Tower Structure Owner
- Other (explain) _____
- Carrier using Tower⁴
- Carrier using non-Tower Structure

For additional information, SHPO/THPO should contact:

- Applicant
- Applicant's Representative
- Other (explain)

Correspondence should be addressed to:

- Applicant
- Applicant's Representative
- Other (explain)

2. Site Information

a. Site name and Identification Number: _____

Identification Number above is:

- temporary reference number used by consultant, or
- permanent reference number used to identify the tower
- other (explain): _____

b. Street Address of Site: _____

City: _____ State: _____ Zip: _____

County: _____ Township: _____

c. Nearest Cross Roads: _____ / _____

⁴ PCIA suggests deleting the box for "Carrier using New Tower."

- d. Site Coordinates UTM or Latitude/Longitude (if available).
- e. Existing Tower height: _____ or existing non-Tower structure height _____ (provide heights above ground and above sea level).
- f. Proposed height of non-Tower structure after collocation (provide heights above ground and above sea level).
- g. Current area of compound : _____
- h. Proposed increased area of compound _____
- i. Describe any new excavation outside the current leased or owned property including compound, access road or utility easement. If none, so state.
- j. (1) How many new equipment cabinets will be added? _____
 (2) How many new equipment shelters will be added? _____
- k. Tower type (if applicable)
 guyed tower monopole self-supporting other
- l. Type of tower lighting,(if applicable) _____
- m. Describe surrounding land use of leased or owned property and any access roads, utility lines, or other easements related to the site.

3. Initiating Section 106 Consultation

- a. **State and/or Tribal Historic Preservation Officers** – List SHPO/THPO with jurisdiction over this project.
- i. Could this project potentially affect Historic Properties located on tribal lands? If so, identify tribes contacted. If not, explain how this determination was made.
- ii. Could this project potentially affect Historic Properties located off tribal lands to which an Indian tribe or Native Hawaiian Organization attaches religious and cultural significance? If so, identify tribes contacted. If not, explain how this determination was made.
- b. **Public Involvement** – Because applicable rules require notice to the public of such undertakings and an opportunity to comment that reflects the nature and complexity of the undertaking, describe measures taken to obtain public involvement in this project.

- c. **Local Government** – Has local government been contacted as a consulting party pursuant to Section V.A. of the Nationwide Agreement? If so, list local government agencies contacted. If not, explain why this has not occurred.
- d. **Additional Consulting Parties**– List any additional consulting parties (individuals or organizations with demonstrated interest in the project) that have been identified and that have been contacted.

4. Identification of Historic Properties

Attach continuation sheets as necessary; include key locations of all Historic Properties to maps and key descriptions of Historic Properties to photos.

- a. **Area of Potential Effects (APE)** – Describe the APE for the proposed project and how this APE was determined, see Section VI B. of the Nationwide Agreement.

b. Previously Identified Historic Properties

- i. Are there any National Historic Landmarks located within the APE? If so, list the name and address of each property.
- ii. Are there any properties or historic districts located within the APE that are listed in the National Register of Historic Places? If so, list the name and address of each property and the source of survey information.
- iii. Are there any properties or historic districts located within the APE that have been determined eligible for listing in the National Register of Historic Places? If so, list the name and address of each property and the source of survey information.
- iv. If Applicant surveyed any previously evaluated historical sites due to the passage of time, changing perceptions of significance, or incomplete prior evaluations, identify and describe these properties. List the name and address/vicinity of each property, the site inventory number, and the source of survey information. Contact SHPO/THPO regarding previously surveyed archeological sites.

c. Field Survey Results

- i. Evaluate the eligibility of any potentially eligible historic districts, sites, buildings, structures, or objects that have not previously been identified that are located within the APE for the National Register of Historic Places, and provide your eligibility assessment. For each property assessed, please reference Photos and Site Location Map. For identified properties, list the name and

address of each property, the site inventory number, and the name of the consultant who performed the evaluation.

- ii. Are there any newly identified archaeological sites located within the APE? If so, evaluate their potential eligibility for the National Register of Historic Places, and provide Applicant's assessment of whether additional survey work is necessary. If Applicant has already completed an archaeological survey, please include survey report with this checklist. For each site assessed, please reference Photos and Site Location Map. For identified properties, list the name and address of each property, the site inventory number, and the name of the consultant who performed the evaluation.
- iii. Describe surrounding topography including modern intrusions, existing buffering, and vegetation. Describe any previous ground disturbance.

d. Determination

Historic Properties Exist Within the APE. Applicant should continue to Section 5, Determination of Effect.

No Historic Properties Exist Within the APE. Applicant need not complete Section 5.

5. Determination of Effect

Use the Criteria of Adverse Effect and the guidelines found at Sections VI.A. and VI. B of the Nationwide Agreement as the basis for Applicant's assessment. **Check one box below and attach narrative** that explains the basis for your determination. The documentation compiled through the use of this checklist should be sufficient for reviewing parties to clearly understand the basis for determinations made about potential project effects on Historic Properties.

"No Historic Properties Affected" means that there are Historic Properties present in the APE, but the undertaking will have no effect on them.

"No Adverse Effect" means that there are Historic Properties within the Area of Potential Effects, but that the undertaking does not meet the Criteria of Adverse Effect. Explain how each criterion of Adverse Effect does not apply or how the Adverse Effect is being avoided.

"Adverse Effect" means that there are Historic Properties within the Area of Potential Effects, that the Applicant has applied the Criteria of Adverse Effect, and found that the undertaking will have an adverse effect on one or more Historic Properties that are eligible for or listed in the National Register of Historic Places. The following questions should be answered in the narrative:

1. Which Historic Properties will be adversely affected? Explain how.
2. Has the SHPO/THPO addressed Adverse Effects in previous communications?
3. What alternatives were considered that might avoid, minimize, or mitigate adverse effects? What conclusion was reached regarding the feasibility of each alternative?
4. How will the public be informed of the developments regarding the Section 106 consultation process?
5. What mitigation options are proposed by the applicant to resolve the adverse effect of the project?

2. Exhibits

a. Photos (Number all photos and key the photos to Photo Map)

- i. Color photos showing view from proposed site in all compass directions, labeled with N/S/E/W view from the tower. Photo coverage of 360 degrees is recommended. If surveyed properties are visible from the proposed site, include additional views from site towards Historic Properties and indicate distance between the site and each property. For all photos, label compass direction and date photos were taken.
- ii. Color photos of existing site conditions. Key photos to description of topography and previous ground disturbances in Field Survey section.
- iii. Color photos of potentially eligible Historic Properties that are reasonably available within Area of Potential Effects. Include photos of all buildings greater than 45 years old. In urban areas where there are large numbers of buildings greater than 45 years old that do not appear to meet the National Register Criteria, Applicant may include a limited number of representative streetscape photos. However, in all cases Applicant must provide sufficient photos in urban areas to support its eligibility assessment and effect determination.

b. Maps

- i. Topographic Map – 7.5-minute quad map showing location of proposed tower site. Show Area of Potential Effects. If map is copied from original, include key with name of quad and date.
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- iii. Photo Map – Applicant may duplicate the Site Location Map (without the Historic Properties). Mark where all photos were taken and indicate direction of view.

**STATEMENT OF
CHAIRMAN MICHAEL K. POWELL**

*Re: In the Matter of Nationwide Programmatic Agreement Regarding the Section 106
National Historic Preservation Act Review Process*

Earlier this month, I announced the launch of the Commission's Environmental and Historic Preservation Action Plan. The goal of the plan is to improve our ability to protect valuable historic and environmental resources, while at the same time accelerating the process of deploying necessary communications infrastructure. The Nationwide Programmatic Agreement is a vital piece of that plan and I am committed to moving forward to finalize the Agreement as soon as possible.

The proposed agreement seeks to clarify the regulatory muddle and delay that has beset many tower-construction proposals by defining key terms, establishing public-participation standards and describing how to submit projects to State Historic Preservation Officers. Our goal is to identify promptly those proposed sites that do impact historic sites and develop mitigation plans or alternative siting plans that allow services to be deployed in those areas. The proposed agreement will also serve to allow those sites that do not have any potential historic impact to move forward without regulatory delay.

We developed this proposed agreement in consultation with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers. I want to thank the members and staff of each of these bodies for their participation in crafting the draft Nationwide Agreement. I also wish to thank the United South and Eastern Tribes and other tribes and tribal organizations for their insights on the review process with respect to properties of traditional religious and cultural importance to Indian tribes or Native Hawaiian organizations. Working together, we have developed an innovative proposal for enhancing historic preservation, eliminating unnecessary regulatory burdens and encouraging cooperation among parties.