



NEWS

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

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FCC ADOPTS NATIONWIDE PROGRAMMATIC AGREEMENT TO STREAMLINE REVIEW PROCESS FOR COMMUNICATIONS TOWERS

Commission Poised To Sign Agreement With Historic Preservation Agencies

Washington, D.C – The Federal Communications Commission today announced that it has adopted measures to streamline and tailor the review process for communications towers and other Commission-licensed facilities under the National Historic Preservation Act (“NHPA”). The Commission’s action adopts the provisions of a Nationwide Programmatic Agreement that, if approved also by the Advisory Council on Historic Preservation (“Advisory Council”) and the National Conference of State Historic Preservation Officers (“Conference”), would be signed by the three agencies.

The Commission’s streamlined process will provide certainty and ease burdens on everyone involved in the review process while continuing to protect historic properties, including those properties to which federally recognized Indian tribes and Native Hawaiian Organizations attach religious or cultural significance. The Commission recognized that, as the number of tower constructions around the country has dramatically increased since the late 1990s, it has a responsibility to manage the expansion of communications infrastructure in a way that best preserves our nation’s historical resources. Increased tower construction has also resulted in an exponential increase in the number of environmental and historic preservation reviews conducted by tower constructors, State Historic Preservation Officers (“SHPOs”), and FCC staff, creating case backlogs, additional paperwork, and delays in the deployment of necessary wireless, public safety, broadcast and other communications infrastructure.

Under Section 106 of the NHPA, federal agencies are required to consider effects of federal undertakings on historic properties. Unless a federal agency has entered into a Programmatic Agreement with specific procedures, it is required to follow the rules of the Advisory Council in performing this review. Because the process in the Advisory Council’s rules for communications towers and antennas is highly complex, a working group of representatives of the Commission, Advisory Council, Conference, American Indian tribes, the communications industry, and historic preservation consultants was formed to consider solutions.

In March 2001, the Commission, Advisory Council and Conference signed an initial Programmatic Agreement that excluded most collocations of antennas on existing structures from routine historic preservation review.

Key elements of the Commission action today include:

- Describing standards for identifying historic properties that may be affected by an undertaking and assessing effects on those properties, including a streamlined process for identifying eligible properties not listed on the National Register that may incur visual effects;
- Prescribing procedures including enforceable deadlines for SHPO and Commission review;
- Providing forms designed to standardize filings to SHPOs;
- Outlining procedures for communicating with federally recognized Indian tribes and Native Hawaiian Organizations in order to ensure protection of historic properties to which tribes and Native Hawaiian Organizations attach religious or cultural significance; and
- Establishing categories of “undertakings” that are excluded from the Section 106 review process. These exclusions include: enhancements to existing towers; replacement and temporary towers; certain towers constructed on industrial and commercial properties or in utility corridor rights-of-way; and construction in areas designated by a SHPO.

Action by the Commission on September 9, 2004, by *Report and Order* in WT Docket No. 03-128 (FCC 04-222). Chairman Powell, Commissioners Copps and Adelstein issuing separate statements. Commissioners Abernathy and Martin approving in part, dissenting in part, and issuing separate statements.

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WT Docket No. 03-128

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