

Rule 74.26	Crude Oil Storage Tank Degassing Operations (Adopted 11/08/94).
Rule 74.27	Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/08/94).
Rule 74.28	Asphalt Roofing Operations (Adopted 05/10/94).
Rule 74.30	Wood Products Coatings (Adopted 06/27/06).
Rule 75	Circumvention (Adopted 11/27/78).
Rule 101	Sampling and Testing Facilities (Adopted 05/23/72).
Rule 102	Source Tests (Adopted 04/13/04).
Rule 103	Continuous Monitoring Systems (Adopted 02/09/99).
Rule 154	Stage 1 Episode Actions (Adopted 09/17/91).
Rule 155	Stage 2 Episode Actions (Adopted 09/17/91).
Rule 156	Stage 3 Episode Actions (Adopted 09/17/91).
Rule 158	Source Abatement Plans (Adopted 09/17/91).
Rule 159	Traffic Abatement Procedures (Adopted 09/17/91).
Rule 220	General Conformity (Adopted 05/09/95).
Rule 230	Notice To Comply (Adopted 9/9/08).

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 15-180; DA 16-519]

Comment Sought on Proposed Amended Nationwide Programmatic Agreement for the Collocation of Wireless Antennas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; request for comments.

SUMMARY: In this document, the Federal Communications Commission's Wireless Telecommunications Bureau (Bureau) seeks public comment on a proposed *Amended Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* to address the review of deployments of small wireless antennas and associated equipment under Section 106 of the National Historic Preservation Act (NHPA).

DATES: Comments are due on or before June 27, 2016.

ADDRESSES: You may submit comments, identified by DA No. 16-519; WT Docket No. 15-180, by any of the following methods:

■ **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS): <http://efjallfoss.fcc.gov/ecfs2/>.

■ **Paper Filers:** Parties who choose to file by paper should file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers should submit two additional copies for each additional docket or rulemaking number.

■ Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

○ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

○ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Stephen DelSordo, (202) 418-1986 or stephen.delsordo@fcc.gov, or Paul D'Ari, 202-418-1550 or paul.dari@fcc.gov. Media contact: Cecilia Sulhoff, (202) 418-0587 or cecilia.sulhoff@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's document in, DA No. 16-519, WT Docket No. 15-180, released May 12, 2016. The full text of this document, including the associated attachments, is available for inspection and copying from 8:00 a.m. to 4:30 p.m. ET Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. The complete text is also available on the Commission's Web site at <http://wireless.fcc.gov>, or by using the search function on the ECFS Web page at <http://www.fcc.gov/cgb/ecfs/>.

Alternative formats are available to persons with disabilities by sending an email to FCC504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

By this document, the Wireless Telecommunications Bureau (Bureau) seeks public comment on the proposed *Amended Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (Amended Collocation Agreement) to address the review of deployments of small wireless antennas and associated equipment under Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108 (formerly codified at 16 U.S.C. 470f)). The Bureau proposes to amend the current *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (Collocation Agreement) (47 CFR pt. 1, App. B) to account for the limited potential of small wireless antennas and associated equipment, including Distributed Antenna Systems (DAS) and small cell facilities, to affect historic properties. The Bureau also proposes minor amendments intended to clarify pre-existing provisions of the Collocation Agreement without modifying how those provisions will be administered going forward.

The Bureau proposes these amendments in order to enable swift and responsible deployment of wireless broadband services—including deployments that will support next generation "5G" wireless service offerings—while maintaining the vital role that States and Tribal Nations play in reviewing projects with potentially significant effects. As Federal Communications Commission ("Commission or FCC") Chairman Wheeler has observed, the evolution to 5G is a "hinge moment" in technological advancement. The Bureau's proposal is designed to leverage this moment and facilitate nationwide wireless broadband deployment while ensuring at the same

time that the Commission's rules reflect the NHPA's values and obligations.

To fulfill its responsibilities under the NHPA, the Commission has incorporated the requirements of Section 106 of the NHPA into its environmental rules. Section 1.1307(a)(4) of the Commission's rules (47 CFR 1.1307(a)(4)) directs licensees and applicants to follow the procedures in the rules of the Advisory Council for Historic Preservation (ACHP), as modified by two programmatic agreements executed by the Commission with ACHP and the National Conference of State Historic Preservation Officers (NCSHPO) (47 CFR pt. 1, Apps. B and C), in order to determine whether certain undertakings will affect historic properties. The Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission (NPA) generally addresses new tower construction, and the Collocation Agreement addresses historic preservation review for collocations on existing towers, buildings, and other non-tower structures. Under the Collocation Agreement, most antenna collocations on existing structures are excluded from Section 106 historic preservation review, with a few defined exceptions to address potentially problematic situations.

In the *Infrastructure Report and Order*, 80 FR 1238, Jan. 8, 2015, the Commission recognized that DAS networks and small cell facilities use components that are a fraction of the size of traditional cell tower deployments and can often be installed on utility poles, buildings, and other existing structures with limited or no potential to cause adverse effects on historic properties. Accordingly, the Commission eliminated some Section 106 reviews of proposed deployments of small wireless communications facilities by adopting two targeted exclusions from Section 106 review for certain small-facility collocations on utility structures and on buildings and other non-tower structures, provided that they meet certain specified criteria. The Commission also stated that there is room for additional improvement in this area, and determined that any more comprehensive measures would require additional consideration and consultation and would be more appropriately addressed and developed through the program alternative process. The Commission committed to work with ACHP and other interested parties to develop a program alternative to promote additional appropriate efficiencies in the historic preservation

review of DAS and small-cell deployments.

This proposal to amend the Collocation Agreement modifies an existing program alternative established in accordance with Section 800.14 of ACHP's rules (36 CFR 800.14). The Collocation Agreement establishes procedures for its amendment, and ACHP's rules require that the Commissions arrange for public participation appropriate to the subject matter and the scope of the category of covered undertakings. On July 28, 2015, the Bureau formally commenced this proceeding by releasing the Public Notice and Section 106 Scoping Document (Comment Sought on Scoping Document Under Section 106 of the National Historic Preservation Act, 80 FR 51174, Aug. 8, 2015), inviting comment on amending the Collocation Agreement to facilitate the review process for deployments of small wireless communications facilities under Section 106 of the NHPA (54 U.S.C. 306108).

The Bureau developed its specific proposal for amending the Collocation Agreement after considering the comments filed in response to the Section 106 Scoping Document and additional information provided at meetings with industry representatives and other interested parties. The proposal has been informed by engagement with ACHP, State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), and Tribal Nations. In accordance with ACHP's requirements, this document seeks comment on the proposed Amended Collocation Agreement; the Bureau will also publish notice of the proposed Amended Collocation Agreement in the **Federal Register**, giving all interested parties an opportunity to comment on the record at the decisional stage.

After considering the comments received in response to this document, the Bureau expects to submit a proposed Amended Collocation Agreement to the other original signatories: ACHP and NCSHPO.

The proposed Amended Collocation Agreement would supplement the two targeted exclusions from Section 106 review and the NPA that the Commission adopted in the *Infrastructure Report and Order* for DAS and small cell deployments, as well as the exclusions set forth in the Collocation Agreement, as adopted in 2001. The proposed Amended Collocation Agreement would tailor the Section 106 process for DAS and small cell deployments by excluding deployments that have minimal

potential for adverse effects on historic properties. Illustrative examples of small facility deployments may be viewed at <https://www.fcc.gov/file/3813/download>.

Exclusion Relating to the Collocation of Small Wireless Antennas and Associated Equipment on Buildings and Non-Tower Structures Outside of Historic Districts. The current Collocation Agreement provides an exclusion for collocations, outside of historic districts, on buildings and non-tower structures that are not over 45 years of age. The proposed amendment to the Collocation Agreement would add new Stipulation VI, which establishes an exclusion for small wireless antennas and associated equipment mounted on buildings or non-tower structures or in the interior of buildings that are over 45 years of age if they are not historic properties and are outside of historic districts. Under the terms of the proposed exclusion, a small wireless antenna may be mounted on an existing building or non-tower structure or in the interior of a building regardless of the building's or structure's age without review under the Section 106 process set forth in the NPA unless: (1) The building or structure is inside the boundary of a historic district, or if the antenna is visible from the ground level of a historic district, the building or structure is within 250 feet of the boundary of the historic district; (2) the building or structure is either a designated National Historic Landmark, or listed in or eligible for listing in the National Register of Historic Places; or (3) the licensee or owner of the building or structure has received notification that the Commission has received a complaint from a member of the public, a Tribal Nation, a SHPO, or ACHP that the collocation has an adverse effect on one or more historic properties. This amendment establishes volumetric limits for antennas and other wireless equipment associated with the structure that are eligible for the exclusion, and restrictions on ground disturbance, with an exemption for up to four lightning grounding rods not exceeding a specified size per project. The volume of any deployed equipment that is not visible from public spaces at the ground level from 250 feet or less may be omitted from the calculation of volumetric limits cited in this Stipulation.

Exclusion Relating to Minimally Visible Deployments of Small Wireless Antennas and Associated Equipment on Structures in Historic Districts or on Historic Properties. The proposed Amended Collocation Agreement would also add a new Stipulation VII.A to

provide an exclusion from review for a small wireless antenna and associated equipment mounted on a building or non-tower structure (or in the interior of a building) that is a historic property or inside or within 250 feet of the boundary of a historic district, subject to visibility limits. Under these limits, that antenna or antenna enclosure must be the only equipment that is visible from the ground level or from public spaces within the building (if the antenna is mounted in the interior of a building), that antenna or enclosure must not exceed 3 cubic feet in volume, and the antenna must be installed using stealth techniques that match or complement the structure on which or within which it is deployed. Under this exclusion, no other antenna on the building or non-tower structure may be visible from the ground level or from public spaces within the building (for an antenna mounted in the interior of a building). The amendment includes provisions restricting the visibility of an antenna's associated equipment, and requires that the facilities be installed in a way that does not damage historic materials and that permits the removal of such facilities without damaging historic materials. The amendment also includes limits on the extent of ground disturbance associated with the collocation, and on the number and size of lightning grounding rods that may be installed.

Exclusion Relating to Visible Small Wireless Antennas and Associated Equipment Deployments on Historic Properties or in Historic Districts. The proposed amendments to the Collocation Agreement would add new Stipulations VII.B, VII.C, and VII.D, providing narrow exclusions from the Section 106 process set forth in the NPA for visible small wireless antennas and associated equipment in historic districts under limited circumstances. New Section VII.B would provide an exclusion for a small wireless antenna including associated equipment mounted on a utility structure (including utility poles or electric transmission towers, but not including traffic lights, light poles, lamp posts, and other structures whose primary purpose is to provide public lighting) that is in active use by a utility company and either is a historic property, is located on a historic property, or is located inside or within 250 feet of the boundary of a historic district. This proposed amendment provides that: (1) The antenna, excluding the associated equipment, must fit in an enclosure (or if the antenna is exposed, within an imaginary enclosure, *i.e.*, one that

would be the correct size to contain the equipment) that is no more than three cubic feet in volume, with a cumulative limit of 6 cubic feet for more than one antenna/antenna enclosure; (2) the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, but excluding cable runs for the connection of power and other services, may be no more than 21 cubic feet in volume; and (3) the extent of ground disturbance associated with the deployment, and the number and size of lightning grounding rods that may be installed, is limited.

Proposed Stipulation VII.C specifies that the foregoing proposed exclusion for utility poles in historic districts would not apply to collocations on a traffic control structure (*i.e.*, traffic light) or on a light pole, lamp post, or other structure whose primary purpose is to provide public lighting, where the structure is located inside or within 250 feet of the boundary of a historic district. However, this section also provides that such proposed collocations may be excluded from such review on a case-by-case basis, if: (1) The collocation meets specified volumetric and ground disturbance limits; and (2) the structure is not historic (not a designated National Historic Landmark or a property listed in or eligible for listing in the National Register of Historic Places) or considered a contributing element to the historic district. The amendment sets forth a process under which such collocations may qualify for the exclusion, which includes providing the SHPO with an opportunity to concur with the applicant's determination that the structure is not a contributing element.

The newly proposed Stipulation VII.D excludes from routine Section 106 review a small wireless communications facility located on a building or non-tower structure or in the interior of a building that is a historic property or is inside or within 250 feet of the boundary of a historic district, regardless of visibility, provided that the facility is an in-kind replacement for an existing facility, and it does not exceed the greater of the size of the existing antenna/antenna enclosure and associated equipment, or volumetric limits specified in the amendment. The replacement of the facilities (including antenna(s) and associated equipment as defined in the Amended Collocation Agreement) must not damage historic materials and must permit removal of such facilities without damaging historic materials. In addition, the extent of ground disturbance associated with the deployment, and the number

and size of lightning grounding rods that may be installed, is limited.

Newly proposed Stipulation VII.E provides that a small antenna mounted inside a building or non-tower structure and subject to the provisions of Stipulation VII must be installed in a way that does not damage historic materials and permits removal of such facilities without damaging historic materials.

Paperwork Reduction Act of 1995

This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

There are a number of other proposed minor amendments to the Collocation Agreement. These include revisions to the preamble that: (1) Define our policy goals in amending the Collocation Agreement; (2) define “Antenna”; (3) update the Agreement to refer to the NPA; and (4) clarify the definition of “Collocation.” Other proposed amendments are intended to clarify and simplify the Collocation Agreement, without changing the way the exclusions have worked in practice. Thus, the amended Agreement: (1) Updates the cite to the NHPA; (2) clarifies the terms of the exclusions under Stipulations III and IV by simplifying the criteria that make towers ineligible for the exclusions and making clear that complaints from Tribal Nations (as well as SHPOs, ACHP, and the public) may make a tower ineligible; and (3) provides a process for the public to notify the FCC regarding any concerns with the application of the Collocation Agreement to specific undertakings (similar to the existing process under the NPA).

This proceeding continues to be treated as exempt under the Commission's *ex parte* rules. Accordingly, parties do not need to submit *ex parte* filings for communications concerning the development of the amendments to the Collocation Agreement. See 80 FR at 51175.

Comments may be filed using the Commission's Electronic Comment

Filing System ("ECFS"). All filings should refer to WT Docket No 15–180. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), or (2) by filing paper copies. See the **ADDRESSES** section.

Availability of Documents: Comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS. <http://fjallfoss.fcc.gov/ecfs2/>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

Accessibility information: To request information in accessible formats (computer diskettes large print, audio recording, and Braille), send an email to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at www.fcc.gov.

List of Subjects in 47 CFR Part 1

Broadband, Communications, Communications common carriers, Reporting and recordkeeping requirements, Telecommunications. Federal Communications Commission.

Sue McNeil,

Chief of Staff, Wireless Telecommunications Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 1 as follows:

- 1. The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 79, *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455.

- 2. Revise Appendix B to part 1 as follows:

Appendix B to Part 1—Amended 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 CFR 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 (54 U.S.C. 300101 *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 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.B 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 FCC, the Council, and the National Conference of State Historic Preservation Officers (NCSHPO) executed this Nationwide Collocation Programmatic Agreement on March 16, 2001 to streamline the Section 106 review of collocation proposals and 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, 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 Middle Class Tax Relief and Job Creation Act of 2012 (Title VI—

Public Safety Communications and Electromagnetic Spectrum Auctions, Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156 (2012)) was adopted with the goal of advancing wireless broadband services, and the amended provisions in this Agreement further that goal; and,

WHEREAS, advances in wireless technologies since 2001 have produced systems that use smaller antennas and compact radio equipment, including those used in Distributed Antenna Systems (DAS) and small cell systems, which are a fraction of the size of traditional cell tower deployments and can be installed on utility poles, buildings, and other existing structures as collocations; and,

WHEREAS, the parties to this Collocation Agreement have taken into account new technologies involving use of small antennas that may often be collocated on utility poles, buildings, and other existing structures and increase the likelihood that such collocations will have minimal and not adverse effects on historic properties, and rapid deployment of such infrastructure may help meet the surging demand for wireless services, expand broadband access, support innovation and wireless opportunity, and enhance public safety—all to the benefit of consumers and the communities in which they live; and,

WHEREAS, the FCC, the Council, and NCSHPO have agreed that these new measures should be incorporated into this programmatic agreement to better manage the Section 106 consultation process and streamline reviews for collocation of antennas; and,

WHEREAS, the FCC, the Council, and NCSHPO have crafted these new measures with the goal of promoting technological neutrality, with the goal of obviating the need for further amendments in the future as technologies evolve; and,

WHEREAS, notwithstanding the intent to draft provisions in a manner that obviates the need for future amendments, in light of the public benefits associated with rapid deployment of the facilities required to provide broadband wireless services, the FCC, the Council, and NCSHPO have agreed that changes in technology and other factors relating to the placement and operation of wireless antennas and associated equipment may necessitate further amendments to this Collocation Agreement in the future; and,

WHEREAS, the FCC, the Council, and NCSHPO have agreed that with respect to the amendments involving the use of small antennas, such amendments affect only the FCC's review process under Section 106 of the NHPA, and would not limit State and local governments' authority to enforce their own historic preservation requirements consistent with Section 332(c)(7) of the Communications Act and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012; 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 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, February 8, 2001, April 17, 2015, July 28, 2015, and May 12, 2016, and through dialogue at intertribal conferences and during conference calls; 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, applicants for antenna licenses, and others deemed appropriate by the FCC, will ensure that the following measures are carried out.

I. Definitions

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

A. "Antenna" means an apparatus designed for the purpose of emitting radio frequency ("RF") radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a Tower, structure, or building as part of the original installation of the antenna. For purposes of this Agreement, the term Antenna does not include unintentional radiators, mobile stations, or devices authorized under Part 15 of the FCC's rules.

B. "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, whether or not there is an existing antenna on the structure.

C. "NPA" is the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (47 CFR part 1, App. C).

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

E. "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 Stipulations I.A and I.B, 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 through the Section 106 process set forth in the NPA, unless:

1. The mounting of the antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.E, above; or

2. The tower has been determined by the FCC to have an adverse effect on one or more historic properties, where such effect has not been avoided or mitigated through a conditional no adverse effect determination, a Memorandum of Agreement, a

programmatic agreement, or a finding of compliance with Section 106 and the NPA; 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, an Indian Tribe, 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 through the Section 106 process set forth in the NPA, unless:

1. The Section 106 review process for the existing tower set forth in 36 CFR part 800 (including any applicable program alternative approved by the Council pursuant to 36 CFR 800.14) 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.E, above; or

3. The tower as built or proposed has been determined by the FCC to have an adverse effect on one or more historic properties, where such effect has not been avoided or mitigated through a conditional no adverse effect determination, a Memorandum of Agreement, a Programmatic Agreement, or otherwise in compliance with Section 106 and the NPA; 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, an Indian Tribe, 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 through the Section 106 process set forth in the NPA, unless:

1. The building or structure is over 45 years old, and the collocation does not meet

the criteria established in Stipulation VI herein for collocations of small antennas;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 a historic district, the building or structure is within 250 feet of the boundary of the historic district, and the collocation does not meet the criteria established in Stipulation VII herein for collocations of small or minimally visible antennas; 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,² and the collocation does not meet the criteria established in Stipulation VII herein for collocations of small or minimally visible antennas; or

4. The collocation licensee or the owner of the building or non-tower structure has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, 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 the NPA for this particular collocation.

VI. Collocation of Small Wireless Antennas and Associated Equipment on Buildings and Non-Tower Structures Outside of Historic Districts

A. A small wireless antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted on an existing building or non-tower structure or in the interior of a building regardless of the building's or structure's age without such collocation being reviewed through the Section 106 process set forth in the NPA unless:

1. The building or structure is inside the boundary of a historic district, or if the

antenna is visible from the ground level of a historic district, the building or structure is within 250 feet of the boundary of the historic district; or

2. The building or non-tower structure is either a designated National Historic Landmark, or listed in or eligible for listing in the National Register of Historic Places; or

3. The collocation licensee or the owner of the building or non-tower structure has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, 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; or

4. The antennas and associated equipment exceed the volume limits specified below:

a. Each individual antenna, excluding the associated equipment (as defined in the definition of Antenna in Stipulation I.A.), that is part of the collocation must fit within an enclosure (or if the antenna is exposed, within an imaginary enclosure, *i.e.*, one that would be the correct size to contain the equipment) that is individually no more than three cubic feet in volume, and all antennas on the structure, including any pre-existing antennas on the structure, must in aggregate fit within enclosures (or if the antennas are exposed, within imaginary enclosures, *i.e.*, ones that would be the correct size to contain the equipment) that total no more than six cubic feet in volume; and,

b. All other wireless equipment associated with the structure, including pre-existing enclosures and including equipment on the ground associated with antennas on the structure, but excluding cable runs for the connection of power and other services, may not cumulatively exceed:

i. 28 cubic feet for collocations on all non-pole structures (including but not limited to buildings and water tanks) that can support fewer than 3 providers;

ii. 21 cubic feet for collocations on all pole structures (including but not limited to light poles, traffic signal poles, and utility poles) that can support fewer than 3 providers;

iii. 35 cubic feet for non-pole collocations that can support at least 3 providers; and,

iv. 28 cubic feet for pole collocations that can support at least 3 providers; or,

5. The depth and width of any proposed ground disturbance associated with the collocation exceeds the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project regardless of the extent of previous ground disturbance.

B. The volume of any deployed equipment that is not visible from public spaces at the ground level from 250 feet or less may be omitted from the calculation of volumetric limits cited in this Section.

VII. Collocation of Small or Minimally Visible Wireless Antennas and Associated Equipment in Historic Districts or on Historic Properties

A. A small antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted on a building or non-tower structure or in the interior of a building that is (1) a historic property (including a property listed in or eligible for listing in the National Register of Historic Places) or (2) inside or within 250 feet of the boundary of a historic district without being reviewed through the Section 106 process set forth in the NPA, provided that:

1. The antenna or antenna enclosure (including any existing antenna), excluding associated equipment, is the only equipment that is visible from the ground level, or from public spaces within the building (if the antenna is mounted in the interior of a building), and provided that the following conditions are met:

a. No other antennas on the building or non-tower structure are visible from the ground level, or from public spaces within the building (for an antenna mounted in the interior of a building);

b. The antenna that is part of the collocation fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure *i.e.*, one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume; and,

c. The antenna is installed using stealth techniques that match or complement the structure on which or within which it is deployed;

2. The antenna's associated equipment is not visible from:

a. The ground level anywhere in a historic district (if the antenna is located inside or within 250 feet of the boundary of a historic district); or,

b. Immediately adjacent streets or public spaces at ground level (if the antenna is on a historic property that is not in a historic district); or,

c. Public spaces within the building (if the antenna is mounted in the interior of a building).

3. The facilities (including antenna(s) and associated equipment identified in the definition of Antenna in Stipulation I.A.) are installed in a way that does not damage historic materials and permits removal of such facilities without damaging historic materials; and,

4. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance.

B. A small antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted on a utility structure (including utility poles or electric transmission towers, but not including light poles, lamp posts, and other structures whose primary purpose is to

¹ Stipulation VI in this Agreement applies to the collocation of small wireless antennas and associated equipment on buildings and non-tower structures outside of historic districts regardless of the building's or structure's age. Suitable methods for determining the age of a building or structure include, but are not limited to: (1) Obtaining the opinion of a consultant who meets the Secretary of Interior's Professional Qualifications Standards for Historian or for Architectural Historian (36 CFR part 61); or (2) consulting public records.

² The NPA provides that in order to determine whether a property is listed in or eligible for being listed in the National Register, the Applicants are required to review records that are available at the offices of the SHPO/THPO or through publicly available sources identified by the SHPO/THPO. NPA, Stipulation VI.D.1.A.

provide public lighting) that is in active use by a utility company (as defined in Section 224 of the Communications Act) and is either: (1) A historic property (including a property listed in or eligible for listing in the National Register of Historic Places); (2) located on a historic property (including a property listed in or eligible for listing in the National Register of Historic Places); or (3) located inside or within 250 feet of the boundary of a historic district, without being reviewed through the Section 106 process set forth in the NPA, provided that:

1. The antenna, excluding the associated equipment, fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure, *i.e.*, one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume, with a cumulative limit of 6 cubic feet if there is more than one antenna/antenna enclosure on the structure;

2. The wireless equipment associated with the antenna and any pre-existing antennas and associated equipment on the structure, but excluding cable runs for the connection of power and other services, are cumulatively no more than 21 cubic feet in volume; and,

3. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance.

C. Proposals to mount a small antenna on a traffic control structure (*i.e.*, traffic light) or on a light pole, lamp post or other structure whose primary purpose is to provide public lighting, where the structure is located inside or within 250 feet of the boundary of a historic district, are generally subject to review through the Section 106 process set forth in the NPA. These proposed collocations will be excluded from such review on a case-by-case basis, if the structure is not historic (not a designated National Historic Landmark or a property listed in or eligible for listing in the National Register of Historic Places) or considered a contributing element to the historic district, under the following procedures:

1. The applicant must request in writing that the SHPO concur with the applicant's determination that the structure is not a contributing element to the historic district.

2. The applicant's written request must specify the traffic control structure, light pole, or lamp post on which the applicant proposes to collocate and explain why the structure is not a contributing element based on the age and type of structure, as well as other relevant factors.

3. The SHPO has thirty days from its receipt of such written notice to inform the applicant whether it disagrees with the applicant's determination that the structure is not a contributing element to the historic district.

4. If within the thirty-day period, the SHPO informs the applicant that the structure is a contributing element or that the applicant has not provided sufficient information for a

determination, the applicant may not deploy its facilities on that structure without completing the Section 106 review process.

5. If, within the thirty day period, the SHPO either informs the applicant that the structure is not a contributing element, or the SHPO fails to respond to the applicant within the thirty-day period, the applicant has no further Section 106 review obligations, provided that the collocation meets the following requirements:

a. The antenna, excluding the associated equipment, fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure, *i.e.*, one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume, with a cumulative limit of 6 cubic feet if there is more than one antenna/antenna enclosure on the structure;

b. The wireless equipment associated with the antenna and any pre-existing antennas and associated equipment on the structure, but excluding cable runs for the connection of power and other services, are cumulatively no more than 21 cubic feet in volume; and,

c. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance.

D. An existing small antenna that is mounted on a building or non-tower structure or in the interior of a building that is (1) a historic property (including a designated National Historic Landmark or a property listed in or eligible for listing in the National Register of Historic Places) or (2) inside or within 250 feet of the boundary of a historic district, regardless of visibility, may be replaced without being reviewed through the Section 106 process set forth in the NPA, provided that:

1. The facility is a replacement for an existing facility, and it does not exceed the greater of:

a. The size of the existing antenna/antenna enclosure and associated equipment that is being replaced; or,

b. The following limits for the antenna and its associated equipment:

i. The antenna, excluding the associated equipment, fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure, *i.e.*, one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume, with a cumulative limit of 6 cubic feet if there is more than one antenna/antenna enclosure on the structure; and,

ii. The wireless equipment associated with the antenna and any pre-existing antennas and associated equipment on the structure, but excluding cable runs for the connection of power and other services, are cumulatively no more than 21 cubic feet in volume; and,

2. The replacement of the facilities (including antenna(s) and associated equipment as defined in Stipulation I.A.) does not damage historic materials and permits removal of such facilities without damaging historic materials; and,

3. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance.

E. A small antenna mounted inside a building or non-tower structure and subject to the provisions of this Stipulation VII is to be installed in a way that does not damage historic materials and permits removal of such facilities without damaging historic materials.

VIII. 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 (54 U.S.C. 300101 *et seq.*) or its implementing regulations contained in 36 CFR part 800.

IX. 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.

C. Any member of the public may notify the FCC of concerns it has regarding the application of this Programmatic Agreement within a State or with regard to the review of individual undertakings covered or excluded under the terms of this Agreement. Comments shall be directed to the FCC's Federal Preservation Officer. The FCC will consider public comments and, following consultation with the SHPO, potentially affected Tribes, or the Council, as appropriate, take appropriate actions. The FCC shall notify the objector of the outcome of its actions.

X. 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.

XI. 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 either are involved in such implementation or 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 owner and management 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.

XII. Annual Meeting of the Signatories

The signatories to this Nationwide Collocation Programmatic Agreement will meet annually on or about the anniversary of the effective date of the NPA to discuss the effectiveness of this Agreement and the NPA, including any issues related to improper implementation, and to discuss any potential amendments that would improve the effectiveness of this Agreement.

XIII. 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, constitutes 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: _____

[FR Doc. 2016-13835 Filed 6-16-16; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS-R7-MB-2015-0172;
FF09M21200-1657-FXMB1231099BPP0]

RIN 1018-BB24

Migratory Bird Subsistence Harvest in Alaska; Use of Inedible Bird Parts in Authentic Alaska Native Handicrafts for Sale

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is proposing changes to the permanent subsistence migratory bird harvest regulations in Alaska. These regulations would enable Alaska Natives to sell authentic native articles of handicraft or clothing that contain inedible byproducts from migratory birds that were taken for food during the Alaska migratory bird subsistence harvest season. These proposed regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

DATES: We will accept comments received or postmarked on or before August 16, 2016. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by August 1, 2016. Comments on the information collection aspects of this proposed rule must be received on or before July 18, 2016.

ADDRESSES: *Comments on the Proposed Rule.* You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-R7-MB-2015-0172.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R7-MB-2015-0172; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Place, MS: BPHC, Falls Church, VA 22041-3803.

We will not accept email or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comment Procedures section, below, for more information).

Comments on the Information Collection Aspects of the Proposed Rule: You may review the Information Collection Request online at <http://www.reginfo.gov>. Follow the instructions to review Department of the Interior collections under review by OMB. Send comments (identified by 1018-BB24) specific to the information collection aspects of this proposed rule to both the:

- Desk Officer for the Department of the Interior at OMB-OIRA at (202) 295-5806 (fax) or OIRA_Submission@omb.eop.gov (email); and
- Service Information Collection Clearance Officer; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041-3803 (mail); or hope_grey@fws.gov (email).

FOR FURTHER INFORMATION CONTACT:

Donna Dewhurst, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 786-3499.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

To ensure that any action resulting from this proposed rule will be as accurate and as effective as possible, we request that you send relevant information for our consideration. The comments that will be most useful and likely to influence our decisions are those that you support by quantitative information or studies and those that include citations to, and analyses of, the applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

You must submit your comments and materials concerning this proposed rule by one of the methods listed above in **ADDRESSES**. We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information, such as your address, telephone number, or email address—will be posted on the Web site. When you submit a comment, the system receives it immediately.