

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE
OFFERED BY _____**

At the end of subtitle D, add the following new chapter:

1 **CHAPTER 4—OTHER MATTER**
2 **SEC. 3331. REBUTTABLE PRESUMPTION ON SHOT CLOCK**
3 **TIMELINE BEGINNING FOR PURPOSES OF**
4 **NHPA.**

5 (a) DEFINITIONS.—In this section:

6 (1) PERSONAL WIRELESS SERVICE.—The term
7 “personal wireless service” means—

8 (A) commercial mobile service (as defined
9 in section 332(d) of the Communications Act of
10 1934 (47 U.S.C. 332(d)));

11 (B) commercial mobile data service (as de-
12 fined in section 6001 of the Middle Class Tax
13 Relief and Job Creation Act of 2012 (47 U.S.C.
14 1401));

15 (C) unlicensed wireless service; and

16 (D) common carrier wireless exchange ac-
17 cess service.

1 (2) PERSONAL WIRELESS SERVICE FACILITY.—

2 The term “personal wireless service facility” means
3 a facility for the provision of personal wireless serv-
4 ice.

5 (3) SMALL PERSONAL WIRELESS SERVICE FA-
6 CILITY.—The term “small personal wireless service
7 facility”—

8 (A) means a personal wireless service facil-
9 ity in which each antenna is not more than 3
10 cubic feet in volume; and

11 (B) does not include a wireline backhaul
12 facility.

13 (4) WIRELINE BACKHAUL FACILITY.—The term
14 “wireline backhaul facility” means an above-ground
15 or underground wireline facility used to transport
16 communications service or other electronic commu-
17 nications from a small personal wireless service facil-
18 ity or its adjacent network interface device to a com-
19 munications network.

20 (b) IN GENERAL.—The deployment of a small per-
21 sonal wireless service facility shall not constitute an under-
22 taking under section 300320 of title 54, United States
23 Code, or a major Federal action for the purposes of sec-
24 tion 102(2)(C) of the National Environmental Policy Act
25 of 1969 (42 U.S.C. 4332).

1 (c) REBUTTABLE PRESUMPTION.—

2 (1) IN GENERAL.—If an Indian Tribe or Native
3 Hawaiian Organization is shown to have received a
4 complete Form 620 or Form 621 (or any successor
5 form), or can be reasonably expected to have re-
6 ceived a complete Form 620 or Form 621 (or any
7 successor form), and has not acted on a complete re-
8 quest contained in the form within 45 days after
9 such receipt—

10 (A) the Commission and a court of com-
11 petent jurisdiction (as the case may be) shall
12 presume the applicant has made a good faith
13 effort to provide the information reasonably
14 necessary for Indian Tribes and Native Hawai-
15 ian Organizations to ascertain whether historic
16 properties of religious and cultural significance
17 to them may be affected by the undertaking;
18 and

19 (B) the Indian Tribe or Native Hawaiian
20 Organization (as the case may be) shall be pre-
21 sumed to have disclaimed interest in the appli-
22 cation.

23 (2) OVERCOMING PRESUMPTION.—

24 (A) IN GENERAL.—An Indian Tribe or Na-
25 tive Hawaiian Organization may overcome the

1 presumption under paragraph (1) upon favor-
2 ably demonstrating one or more of the factors
3 to be considered under subparagraph (B).

4 (B) FACTORS CONSIDERED.—The review
5 by the Commission or a court of competent ju-
6 risdiction under paragraph (1) shall give sub-
7 stantial weight to—

8 (i) whether the applicant made a rea-
9 sonable attempt to follow up with the In-
10 dian Tribe or Native Hawaiian Organiza-
11 tion not earlier than 30 days, and not later
12 than 50 days, after the applicant sub-
13 mitted a complete Form 620 or Form 621
14 (as the case may be) to the Indian Tribe
15 or Native Hawaiian Organization; and

16 (ii) whether the rules of the Commis-
17 sion and Form 620 or Form 621 is found
18 to be in violation of a Nationwide Pro-
19 grammatic Agreement of the Commission.

