



Federal Communications Commission

Environmental Compliance for Communications Towers

National Environmental Policy Act (NEPA)

www.fcc.gov/general/tower-and-antenna-siting

All facilities constructed by or for FCC licensees or owned by registrants must comply with the Commission's environmental regulations implementing NEPA (47 CFR 1.1301-1.1319). The regulations include requirements for compliance with Section 106 of the National Historic Preservation Act (NHPA) as well.

NEPA

- ◆ Requires agencies to consider and disclose the environmental effects of their actions to improve decision-making and encourage transparency, public participation, and accountability;
- ◆ Defines effects broadly to include ecological, aesthetic, historic, social, and cumulative and indirect;
- ◆ Has three levels of review, depending on the significance of the effect (which depends on context and intensity):
 - ◇ Categorical exclusions (CE or CatEx) - for action or types of action with minimal or no impacts on the environment
 - ◇ Environmental Assessments (EAs) - for actions that may have a significant effect. If no significant effect, agency issues a Finding of No Significant Effect (FONSI)
 - ◇ Environmental Impact Statements (EISs) - where impacts will be significant, a detailed analysis and disclosure of actions and alternatives;
- ◆ Does not mandate an outcome or prevent a project from moving forward; just requires consideration of effects and alternatives.

FCC and NEPA

Responsibility for NEPA and compliance rests with the FCC. Actions that trigger agency NEPA obligations include registering and licensing towers and facilities.

The FCC has delegated the initial assessment of whether a proposed facility is categorically excluded (and certification to that effect) as well as preparation of EAs to licensees and applicants.

We have categorically excluded from detailed analysis all agency actions except those associated with construction of facilities that fall into certain categories. The categories are facilities that:

- ◆ Will be in a wilderness area or wildlife preserve (generally on federal land);
- ◆ Might affect threatened and endangered species or their habitat (Endangered Species Act);
- ◆ Might affect properties included or eligible for inclusion in the National Register of Historic Places (NHPA) or Indian religious and cultural sites;
- ◆ Will be in a flood plain;
- ◆ Will involve "significant changes in surface features" during construction (e.g., wetlands, water diversion, deforestation);
- ◆ Will be over 450 feet and so might affect migratory birds;
- ◆ Involve high intensity lighting in a residential area; or
- ◆ Would cause RF emissions exposure in excess of FCC-established limits

If the project—including antenna structures, equipment cabinets, fencing, roads, power and fiber connections, and their operation and maintenance—falls into any of these categories, applicant must file an EA, which the FCC posts for public comment. Applicant must get a FONSI before building.

The public can request and the agency can order additional environmental review on issues beyond the checklist. The agency can ask for mitigation to reduce impacts.



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REMINDERS

- ◆ FCC rules impose enforceable duties on licensees and applicants so that the agency can meet its NEPA obligations.
- ◆ Rules apply to all licensees and applicants, including commercial licensees, broadcasters, utilities, public safety entities, railroads, mining companies, and tower registrants.
- ◆ In order to answer “yes” or “no” on FCC forms about whether the project might have “a significant effect on the environment,” the applicant must complete the regulatory checklist before certifying; height and design are not dispositive of whether a proposed structure might have a significant effect.
- ◆ Building without following the requirements at 47 CFR 1.1301-1.1319 can constitute a violation of FCC rules and subject the constructing party to potential enforcement action; issuance of a license does not authorize building unless environmental requirements have been met.

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