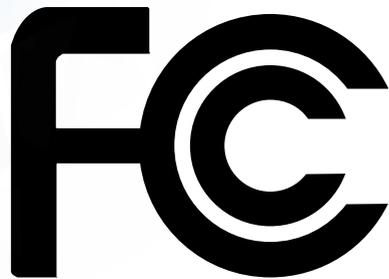




# **Broadband Deployment Advisory Committee**

## **Summary: Wireless Infrastructure Item**



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**Broadband Deployment Advisory Committee**

**Senior Counsel**

**Wireless Telecommunications Bureau**

**Competition and Infrastructure Policy Division**

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## **Accelerating Wireless Broadband Deployment**

- NPRM and NOI generally seek comment on actions the Commission could take to expedite wireless infrastructure deployments by exploring:
  - Ways to improve state and local governmental review processes for siting applications.
  - Potential revisions to the Commission's rules and processes implementing its responsibilities under the National Environmental Policy Act and Section 106 of the National Historic Preservation Act.

## Notice of Proposed Rulemaking

### Local Review Process:

- “Deemed granted” remedy for missing shot clock deadlines
- Shorter Shot Clock for acting on applications
- Moratoria

### Environmental and Historic Preservation Review:

- Tribal Fees
- Section 106 Exclusions
- Non-Compliant Towers
- NEPA Streamlining
- Scope of Federal Action and Undertaking

## **State and Local Review – “Deemed Granted”**

- Commission seeks comment on whether to adopt a “deemed granted” remedy if a state or local government fails to act upon a siting application within a reasonable period of time under Section 332 (i.e., by the shot clock deadline).
- Currently, the shot clock deadline is a rebuttable presumption, and the remedy for a missed deadline is through litigation.
- With a deemed granted rule, failure to act by the deadline would result in a more automatic remedy of granting the application.

## **State and Local Review – Shot Clock**

- NPRM seeks comment on:
  - Shortening the shot clock for the purpose of determining a “reasonable period of time” under Section 332.
  - Whether to create different shot clocks for more narrowly defined classes of deployments.
  - Whether these distinctions should be based upon such factors as the size of the equipment, the location of the deployment, or whether an applicant is seeking approval for multiple sites.

## **State and Local Review – Moratoria**

- NPRM seeks comment on:
  - Whether some localities are continuing to impose moratoria or other restrictions on the filing or processing of applications, including refusing to accept applications or insisting that applicants agree to tolling arrangements.
  - The Commission proposes to take any additional actions necessary, such as issuing an order or declaratory ruling providing more specific clarifications of the moratorium ban or preempting specific State or local moratoria.

## Historic Preservation Review – Tribal Fees

- NPRM seeks comment on:
  - Proposals for determining when applicants may be required to compensate Tribal Nations for their role in reviewing deployments.
  - The amount of compensation sought by some Tribal Nations.
  - The legal framework for the Commission to establish a fee schedule or resolve fee disputes.

## **Historic Preservation Review – Tribal Geographic Areas of Interest**

- Tribal Nations have increased their “areas of interest” off Tribal lands within the Commission’s “Tower Construction Notification System,” which has resulted in an increase in the number of Tribal Nations that applicants contact prior to siting facilities.
- Commission seeks comment on whether there are actions it can take to mitigate the impact of this development, while complying with its obligations under Section 106 of the NHPA.

## Historic Preservation Review – Exclusions

- NPRM seeks comment on exclusions from Section 106 review for the following types of collocations:
  - Collocations in transportation rights-of-way;
  - Collocations that are near historic districts, provided they are at least 50 feet from the boundary;
  - Collocations reviewed and approved by a Certified Local Government;
  - Collocations that have been approved with a Certificate of Appropriateness from a local historic preservation review body.

## NEPA

- NPRM seeks comment on whether:
  - The Commission's rules should be revised so that an EA is not required for siting in a flood plain under certain conditions.
  - A categorical exclusion should be adopted for DAS and small cell facilities, subject to certain conditions.

## **Scope of Federal Action and Undertaking**

- Commission seeks comment on:
  - Whether it should revisit the interpretation of the scope of its responsibility to review the effects of wireless facility construction under the NHPA and NEPA.
  - Its interpretations of major federal action and federal undertaking and whether it should be changed in light of developments in wireless infrastructure technology, the move from site-by-site licensing to geographic licensing of wireless services, and other factors.

## **Twilight Towers and Other Non-Compliant Towers**

- NPRM seeks comment on:
  - Definitive solution for the Twilight Towers – towers built between the adoption of the Collocation Agreement in 2001 and the NPA in 2005, and may not have completed Section 106 review.
  - A solution that will allow Twilight Towers to be used for collocations, subject to certain conditions, and that respects the integrity of the Section 106 process.
  - Measures to facilitate collocations on other non-compliant towers, constructed after March 7, 2005.

## Notice of Inquiry

- NOI examines the interplay between Sections 253 and 332(c)(7) and seeks comment on:
  - State or local regulations that may prohibit or have the effect of prohibiting service.
  - Potentially unreasonable discrimination in State or local review of wireless siting applications relative to other types of siting applications.

## Notice of Inquiry

- Application fees and other charges for siting wireless infrastructure on properties beyond rights of way (Wireless Bureau Public Notice previously asked similar questions about rights of way).
  - Whether upfront fees, recurring charges, or other practices may be unreasonable and inconsistent with the Communications Act in some circumstances.
- Whether the Commission should provide any new or updated guidance or determinations pursuant to its authority under these statutes, including through the issuance of a Declaratory Ruling.

## **Public Comments:**

- *Comments Due*: 30 days after publication in Federal Register
- *Reply Comment Due*: 60 days after publication in Federal Register

# Wireless Infrastructure Item- Questions

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