

FCC REVAMPS COLLOCATION NPA TO PROVIDE ADDITIONAL NHPA EXCLUSIONS



BACKGROUND AND REGULATORY HISTORY

The Federal Communications Commission (FCC) is required by the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) to consider the environmental and historic preservation consequences of its actions.

On March 16, 2001, the FCC issued the first of two Nationwide Programmatic Agreements (NPAs). This 2001 NPA addressed Section 106 review of collocations and contained three main stipulations. On March 7, 2005, the FCC issued its second NPA, targeted to streamline and standardize Section 106 review of new and replacement tower structures. Additionally, on January 8, 2015, the FCC updated its NEPA/NHPA rules to facilitate the acceleration of broadband deployment.

NEW STIPULATIONS ADDED TO 2001 NPA

On August 3, 2016, the FCC amended its 2001 Collocation NPA. Stipulation V was modified to exclude interior antenna deployments in non-significant properties over 45 years old. Three new stipulations were also added. **All of the new exclusions require that there be no new ground disturbance, except up to four 3/4" new ground rods are allowed.**

COLLOCATIONS ON HISTORICALLY INSIGNIFICANT NON-TOWER STRUCTURES OUTSIDE HISTORIC DISTRICTS

A new Stipulation VI establishes a Section 106 review exclusion for collocation of small wireless antennas mounted on an existing non-tower structure or in the interior of a building regardless of age unless the non-tower structure is within 250 feet of a historic district (visible antenna) or the non-tower structure is a designated National Historic Landmark (NHL) or listed in or eligible for listing in the National Register of Historic Places (NRHP). Volume limits may not exceed 3 ft³ for each antenna, 6 ft³ for all antennas, and a total of 21-35 ft³ for all other visible equipment (depending on the structure type and number of possible collocating entities).

COLLOCATIONS ON NON-TOWER STRUCTURES NEAR HISTORIC DISTRICTS OR ON HISTORIC PROPERTIES

A new Stipulation VII contains sub-stipulations preempting Section 106 review. Stipulation VII.A excludes minimally visible deployments in or within 250 feet of a historic district and/or on historic

properties with no NHL status. The antenna must be the only portion of the facility that is visible from the ground level of the historic district or (for interior deployments) from public spaces within the building. The visible antenna must be no more than 3 ft³ in volume and must be installed using stealth techniques. No other antennas on or within the building or non-tower structure may be visible. Further, associated equipment may not be visible from ground level anywhere in a historic district; from immediately adjacent streets or public spaces if the antenna is on a historic property that is not in a historic district; or (for interior deployments) from public spaces within the building.

Stipulation VII.B excludes collocations on utility structures (but not traffic lights or street lights) that are in active use by a utility company and the structure is either a historic property, is located on a historic property, or is within 250 feet of a historic district with no NHL status. The 3 and 6 ft³ volume limits apply to visible antennas and all other equipment must not exceed 21 ft³ in volume.

Stipulation VII.C excludes collocations on traffic control and street light structures located within 250 feet of a historic district on a case by case basis. The Applicant must document to, and obtain concurrence from, the State Historic Preservation Office (SHPO) that the structure is not an NHL, is not listed in or eligible for listing in the NRHP, and is not a contributing element to a historic district. The 3 and 6 ft³ volume limits apply to visible antennas and all equipment must not exceed 21 ft³ in volume.

Stipulation VIII excludes replacement of antennas on non-tower structures regardless of location and visibility, provided that the replacement is no larger than the antenna being replaced or is smaller than 3 ft³ per antenna or 6 ft³ in the aggregate for all antennas being replaced, whichever is greater. All equipment must be less than 21 ft³ in volume. The antenna being replaced must have

either been excluded from or undergone Section 106 Review.

Antenna collocations on historic properties must be capable of being installed and removed without damaging historic materials.

For all exclusions, Section 106 Review may be required if the FCC has received a complaint relative to the Undertaking.

All new exclusions require that there be no new ground disturbance, except that up to four 3/4" new ground rods are allowed.

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ECA has completed NEPA and NHPA evaluations at thousands of wireless, DAS, and small cell facilities. For NEPA and NHPA compliance for wireless facilities, please contact Marvin Webster of ECA at marvin.webster@eca-usa.com or (770) 667-2040 x 101.

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