

UNDERSTANDING THE FCC NATIONWIDE PROGRAMMATIC AGREEMENT EXCLUSIONS



The following is Part 1 of a two-part explanation of the NPA. Please contact ECA or visit our website to obtain Part 2 of this guidance.

On March 7, 2005, the latest Nationwide Programmatic Agreement (NPA) governing Section 106 (SHPO) review of wireless telecommunications facilities became effective. The FCC rules require that all Section 106 Review (SHPO) reports submitted on or after this date adhere to the new NPA. The NPA excludes from Section 106 review certain undertakings involving construction and modification. The NPA does not address collocations, as there is an existing Collocation NPA (FCC, March 16, 2001), nor does it absolve Applicants from evaluating other environmental review categories (e.g., Wilderness Areas, Wildlife Preserves, Protected Species, Wetlands, Floodplains, etc.).

WHAT UNDERTAKINGS ARE EXCLUDED?

TOWER ENHANCEMENTS AND REPLACEMENT TOWERS

Enhancement (modification) and any associated excavation that does not involve a collocation and does not substantially increase the size of the existing tower as defined in the Collocation NPA (compound horizontally in any direction or tower vertically by the greater of 10% or 20-feet) is exempted from Section 106 Review. The NPA permits replacement towers without Section 106 Review provided that the Undertaking does not involve a substantial increase in size and does not involve excavation outside any existing access or utility easement or expansion beyond 30 feet in any direction. Towers constructed after March 16, 2001, must have undergone the full FCC environmental review process, including the Section 106 Review process for either of these two exclusions to apply.

TEMPORARY FACILITIES

The NPA permits the erection of temporary facilities without Section 106 Review. Temporary facilities subject to this exclusion may be in place for a period not to exceed 24 months (longer for facilities associated with National security). The exclusion includes, but is not limited to, temporary emergency towers;

COWs (cell on wheels), and temporary ballast mount towers involving no excavation or excavation on previously disturbed ground only.

COMMERCIAL AND INDUSTRIAL PROPERTIES

The NPA permits construction of facilities less than 200 feet in overall height (AGL) in existing industrial parks, commercial strip malls, and shopping centers that occupy a total land area over 100,000 square feet provided that no property included in or previously recorded as eligible for inclusion in the National Register is located within 500 feet of the parent development. Consultation with potentially affected Indian tribes is still a requirement for facilities falling within this exclusion.

EXISTING UTILITY CORRIDORS

The NPA permits construction of new facilities within 50-feet of the outer boundary of an above-ground utility corridor, provided that there is no substantial increase, as defined in the Collocation NPA (generally 10% or 20-feet) over existing structures and provided that the proposed facility would not be located within the boundaries of a Historic Property. Consultation with potentially affected Indian tribes is still a requirement for facilities falling within this exclusion.

AREAS THAT HAVE RECEIVED PRIOR SHPO/THPO DESIGNATION

The NPA permits construction of a Facility in any area previously designated by the State or Tribal Historic Preservation Office as having limited potential to affect Historic Properties. Areas thusly designated must be documented by the SHPO/THPO and made available for public review. Consultation with potentially affected Indian tribes is still a requirement for facilities falling within this exclusion.

The NPA excludes from Section 106 review certain undertakings involving construction and modification.



The NPA does not absolve applicants from evaluating other environmental review categories.

ECA has completed thousands of environmental and cultural resource projects at wireless telecommunication facilities. If you have questions regarding FCC NEPA compliance or to request Part 2 of this guidance, please contact Marvin Webster of ECA: marvin.webster@eca-usa.com, (770) 667-2040 x101.

ECA is an environmental, cultural resources, and geotechnical consulting and engineering firm with a 24-year track record of excellent service to clients. ECA attributes its success to providing timely and innovative services and solutions with a persistent focus on the objectives of clients.

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