

# WIRELESS INFRASTRUCTURE REPORT AND ORDER NEPA/NHPA SUMMARY



## FCC FINDS NO GENERAL EXCLUSION FOR WIRELESS FACILITIES

On October 17, 2014 the FCC adopted its Wireless Infrastructure Report and Order providing wireless deployments relief from certain requirements of the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA). Therein, the FCC declined to find that DAS and Small Cell deployments are not Undertakings. The FCC also found that DAS and Small Cell facilities did not qualify for a general exclusion from NEPA and/or NHPA, but instead opted for targeted exclusions.

### EVALUATION OF FACILITIES FOR CATEGORICAL EXCLUSION

Applicants must identify and evaluate environmental effects of individual proposed Federal Actions and Undertakings, including deployment of Macro Sites, DAS, Small Cells, and facilities on Non-Tower Structures. As such, Applicants require pre-construction documentation demonstrating that construction is categorically excluded under NEPA and/or NHPA. For facilities not categorically excluded, filing of an Environmental Assessment (EA) with the FCC is required.

### FCC CLARIFIES NOTE 1 of 47 CFR 1.1306 FOR ALL COLLOCATIONS

The FCC clarified that the term “Antenna” includes all associated equipment (wiring, cabling, cabinets, and backup power). The FCC also clarified that there is no distinction between mounting an antenna “on” versus “in” a building. Interior antenna deployments are subject to the same NEPA/NHPA exclusions (and inclusions) as exterior deployments.

### FCC ADOPTS BROAD NEPA EXCLUSION FOR NEW TOWER STRUCTURES IN ABOVE-GROUND UTILITY CORRIDORS

The FCC adopted a new NEPA categorical exclusion for new and replacement small structures within active above-ground utility corridors, provided there is no substantial increase in size (10% or 20 vertical feet) over existing structures and that ground disturbance is limited to the proximity of the new or replacement structure within the easement. **It is important to note that this exclusion is a NEPA exclusion, not an NHPA exclusion. Tribal consultation is required for all new, non-replacement Tower Structures.**

### WHAT ABOUT UTILITY POLE COLLOCATIONS?

The FCC adopted an exclusion for collocation on existing utility poles/structures where there is no new ground disturbance and the antennas and equipment do not exceed a specified volume limitation (3 cubic feet for each antenna/enclosure,

not to exceed 6 cubic feet in the aggregate and a total 17 cubic feet for all equipment enclosures across all wireless implementations at a specific location or node). However, this categorical exclusion is not applicable to collocations on light poles, lamp posts, or other structures. This categorical exclusion is also not applicable within 250 feet of a historic district, on utility structures that are listed in or eligible for the National Register, or where there is a documented complaint relative to historic properties.

### FCC PROVIDES RELIEF FOR MODIFICATION OF EXISTING FACILITIES ON NON-TOWER STRUCTURES OVER 45 YEARS OLD

The FCC adopted an exclusion for collocation/modification of a facility located on a building or Non-Tower Structure where there are pre-existing antennas and no new ground disturbance. The exclusion provides size and height restrictions (antennas no more than 3 feet wider or higher). New visible antennas must generally be within 10 feet, as measured from centerlines for visible antennas). In general, views of new and replacement antennas must encompass existing antennas and no new equipment cabinets may be visible from adjacent streets and public spaces. Pre-existing antennas must not have been deployed using this exclusion and new/replacement antennas must comply with existing zoning and historic preservation requirements for existing antennas (i.e., concealment, painting to match existing surfaces, etc.). This categorical exclusion is not applicable within 250 feet of a historic district, on Non-Tower Structures that are listed in or eligible for the National Register, or where there is a documented complaint relative to adverse effects to historic properties.

**The FCC did not find that DAS and Small Cell facilities qualify for a general exclusion from NEPA.**

**Tribal consultation is required for all new, non-replacement Tower Structures.**

*ECA has completed thousands of NEPA and NHPA evaluations at wireless telecommunication facilities. If you have questions regarding NEPA or NHPA compliance for wireless facilities, please contact Marvin Webster of ECA: [marvin.webster@eca-usa.com](mailto:marvin.webster@eca-usa.com), (770) 667-2040 x 101.*

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