

FEDERAL COMMUNICATIONS COMMISSION AMENDS ITS RULES FOR SMALL CELLS AND EAs



FEDERAL COMMUNICATIONS COMMISSION AMENDS ITS RULES FOR SMALL WIRELESS FACILITIES AND FILING ENVIRONMENTAL ASSESSMENTS (EAs)

The FCC is required to consider the environmental and historic preservation consequences of *major federal actions*, as defined by the National Environmental Policy Act (NEPA), and of *federal undertakings* as defined by the National Historic Preservation Act (NHPA).

In exercising its mandate to weigh the costs and benefits of environmental and historic preservation review processes, the Commission has found that the public interest is not served by applying Section 1.1312 of its rules to the class of small wireless facility deployments described below. Therefore, in a change to its environmental and historic preservation rules effective July 2, 2018, the FCC amended Section 1.1312 to clarify that the deployment of small wireless facilities by private parties does not constitute either a *federal undertaking* within the meaning of NHPA or a *major federal action* under NEPA, so that neither statute's review processes would be mandated. These small facilities would remain subject to state and local government approval processes.

DEFINING CHARACTERISTICS WHICH EXEMPT SMALL WIRELESS FACILITIES FROM REVIEW

To qualify as an action not subject to NEPA or NHPA review processes:

1. The facilities must be mounted on structures 50 feet or less in height including their antennas, or the facilities must be mounted on structures no more than 10 percent taller than other adjacent structures, or the facilities do not extend existing structures on which they are located to a height more than 50 feet or by more than 10 percent, whichever is greater;
2. Each antenna associated with the deployment, excluding the associated equipment, must fit within an enclosure (or if the antenna is exposed), within an imaginary enclosure, that is no more than three cubic feet in volume;
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet by volume;
4. The facilities do not require antenna structure registration (ASR) under Part 17 of the Commission's rules;
5. The facilities are not located on tribal lands; and
6. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards.

The FCC has found that categorically subjecting small cells to NEPA/NHPA review is counter to the public interest.

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The requirement to file an EA with the FCC for facilities located in floodplains is eliminated.

STREAMLINING PROCEDURES FOR FILING OF ENVIRONMENTAL ASSESSMENTS

The FCC also proposes to amend Section 1.1307(a)(6) to eliminate the requirement to file an Environmental Assessment (EA) due solely to a facility being located within a federal 100-year floodplain. Furthermore, where an EA is required the Commission will alter its procedures to perform a completeness/adequacy review within 20 days from the date that an EA is initially placed on public notice. Barring receipt by the Commission of a complaint or petition to deny, the Commission will issue a Finding of No Significant Impact (FONSI) within 60 days from the initial placement of public notice for the EA.

If deemed incomplete within the initial 20-day completeness/adequacy review period, the Commission will advise the applicant within 30 days from the date the EA is placed on public notice. In this circumstance, the Commission would, barring receipt of a complaint or petition to deny, issue a FONSI within 30 days after the applicant fulfills any request for additional information by the Commission. A new public notice will not be required unless the missing information may impact the public's ability to comment on significant environmental impacts. If an additional notice is required, a new 60-day period would begin when the revised EA notice is published.

ECA has completed NEPA and NHPA evaluations for thousands of macro, 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.

ECA is an environmental, cultural resources, and geotechnical consulting and engineering firm with a 27-year track record of excellent service to wireless customers. ECA attributes its success to providing timely and innovative services and solutions with a persistent focus on the objectives of customers.