

NEPA MythBusters

SECTION 106 PROCESS

1. A complete FCC Form 620/621 Submission Packet was submitted to the State Historic Preservation Office (SHPO). Because 30 days have elapsed with no response from SHPO, the Section 106 process is complete, and the project may proceed as planned.

According to Section VII.B.2 of the 2004 Nationwide Programmatic Agreement (NPA), this statement is true only when the applicant submits a “No Historic Properties Affected” determination. If the applicant submits a “No Adverse Effect” determination, then Section VII.C.2 of the NPA applies. In this instance, a copy of the Submission Packet must be forwarded to the Federal Communication Commission (FCC). If the applicant receives no response from the FCC within 15 days after the FCC receives the Submission Packet electronically or 25 days after the FCC receives it by other means, then the Section 106 process is complete, and the project may proceed as planned.

2. Because the proposed project will occur within a parking lot or on a rooftop, tribal consultations are not required.

Except as stipulated in Section III A. – F. of the NPA, all sites requiring Section 106 review also require submittal to the Tower Construction Notification System (TCNS) as a means for completing tribal consultations. Once submitted, consultation requirements are determined by each individual tribe. Unless a tribe’s guidelines specifically exclude a proposed action or location from review, clearance should be obtained from each tribe before concluding that the Section 106 review process is completed. Collocations involving ground disturbances outside of the current leased area, including rooftop collocations, are often not excluded from review by many tribes.

ENVIRONMENTAL ASSESSMENTS

3. An FCC NEPA Screening was conducted, and it was determined that the proposed project would affect one or more environmentally sensitive areas. An Environmental Assessment was prepared and submitted to the FCC; therefore, the project may proceed.

Construction may not begin on the proposed project until the FCC issues a Finding of No Significant Impact (FONSI). On average, it takes approximately 45 days for the FCC to issue a FONSI in response to an EA.

4. The proposed project will have an insignificant impact on wetlands. Because the impact is insignificant and the U.S. Army Corps of Engineers (USACE) does not require a permit, an EA is not required to be submitted to the FCC.

An EA must be submitted to the FCC for all wetland impacts regardless of the extent of the impact and USACE or local permitting requirements. The FCC will determine the significance of the impact and issue a FONSI for impacts determined to be insignificant.

5. The proposed project will be located within a 100-year floodplain, but the city/county issued a building permit; therefore, an EA is not required to be submitted to the FCC.

An EA must be prepared and submitted to the FCC for all telecommunication facilities constructed within a 100-year floodplain. A building permit from the city/county should be included in the EA to document compliance with Federal Emergency Management Agency (FEMA) guidelines; however, the building permit does not supersede the requirement that an EA be submitted to the FCC.