

ENVIRONMENTAL COMPLIANCE FOR COMMUNICATIONS TOWERS

SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

http://wireless.fcc.gov/siting/historic_preservation.html

All towers constructed by or for FCC licensees must comply with the Commission's environmental regulations. These rules implement the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and Section 106 of the National Historic Preservation Act (NHPA). Under Section 106, the Commission must consider the effect of a proposed tower on historic properties, and this process must be completed prior to construction. The height of the tower and the status of the licensee are not factors in the requirement to comply with the Commission's environmental rules.

The National Historic Preservation Act

The National Historic Preservation Act:

- Created the National Register of Historic Places
- Requires federal agencies to consider the effect of federal undertakings on properties included or eligible for inclusion in the National Register
- Requires each Agency to have a Federal Preservation Officer
- Established:
 - Advisory Council on Historic Preservation (ACHP)
 - State Historic Preservation Officers (SHPO)
 - Tribal Historic Preservation Officers (THPO)

The screenshot shows the FCC's website page for 'Historic Preservation for Tower Siting'. The page is part of the 'Wireless Telecommunications Bureau' and is titled 'Historic Preservation for Tower Siting'. It includes a search bar, a navigation menu, and a main content area. The main content area is titled 'National Historic Preservation Act' and contains text explaining the NHPA of 1966 and its requirements for federal agencies. It also includes a section for 'NHPA Information' with bullet points and a section for 'Nationwide Programmatic Agreements'.

Section 106 & FCC Rules

- Section 106 obligations rest on the FCC as a federal agency
- The Commission has consistently treated tower construction as an "undertaking" due to its relation to licensing and antenna structure registration
- The Commission's rules impose enforceable duties on licensees and applicants in order to ensure compliance with the Commission's legal obligations."
- These duties on applicants are part of the Commission's environmental rules, 47 C.F.R. §§ 1.1301-1.1319
- The Commission's rules for Section 106 are set forth in the Nationwide Programmatic Agreement (NPA) and incorporated into the Commission's rules

Reminders

The Commission reminds licensees that:

- Adverse effects and disputed cases must be resolved by the Commission
- The height or design of the proposed tower does not determine whether it is subject to the NEPA and Section 106 processes
- The grant of a license is NOT permission to construct if any of the environmental or Section 106 requirements have not been satisfied

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