





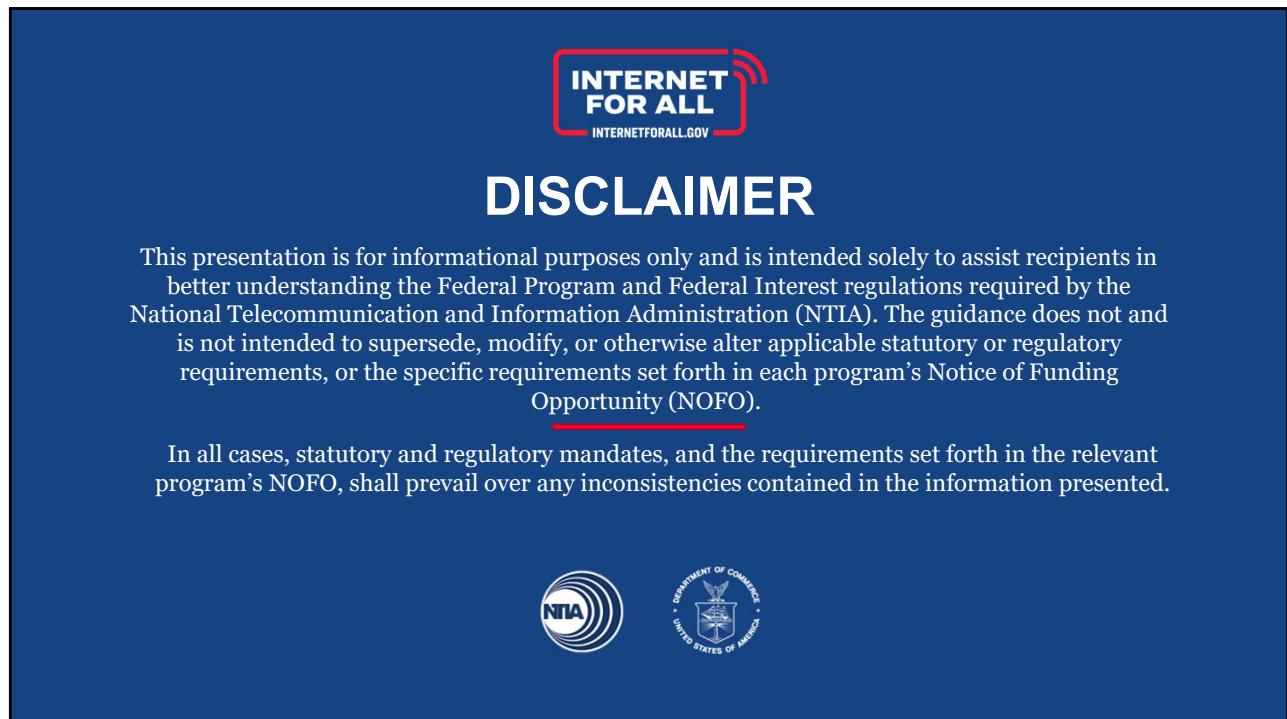
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NEPA: Environmental and Historic Preservation Compliance

April 2024



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DISCLAIMER

This presentation is for informational purposes only and is intended solely to assist recipients in better understanding the Federal Program and Federal Interest regulations required by the National Telecommunication and Information Administration (NTIA). The guidance does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific requirements set forth in each program's Notice of Funding Opportunity (NOFO).

In all cases, statutory and regulatory mandates, and the requirements set forth in the relevant program's NOFO, shall prevail over any inconsistencies contained in the information presented.



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Agenda

- 1 NEPA and NHPA overview
- 2 Project Descriptions & Best Practices
- 3 EHP Responsibilities
- 4 What's New at NTIA?
- 5 Questions

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NEPA and NHPA Overview

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What is NEPA?



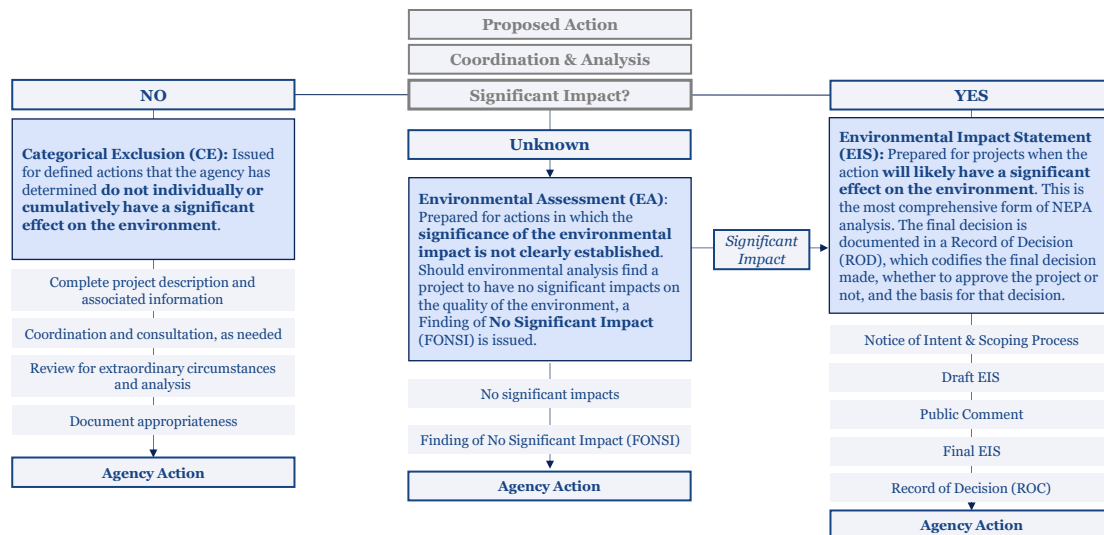
Passed in 1970, the National Environmental Policy Act (NEPA) is considered an “umbrella law” as it provides a framework within which all other environmental, historic, and cultural resources laws can be evaluated. It set forth the requirement for environmental reviews and formally established environmental protection as a Federal policy. NEPA, as well as the National Historic Preservation Act of 1966 (NHPA), requires federal agencies to “stop, look, and listen” before making decisions that impact historic properties and the human environment.

- Requirements with NHPA and dozens of other environmental and historic preservation laws and Executive Orders can be addressed as part of the NEPA process.
- NEPA and NHPA review, including consultation, must be completed before awarded project can begin.
- The NEPA process requires that the government make a transparent, informed decision, but it does not require that decisions have no impacts to the environment.
- Documentation and analysis demonstrates that the government has not made an “arbitrary and capricious” decision.



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Levels of NEPA Review



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NEPA Timelines



These timelines do not take into account any other outstanding agency approvals. A project is not considered cleared for NEPA until NTIA applies a Categorical Exclusion or issues a decision document (FONSI or ROD).



Categorical Exclusion

NTIA will develop after receiving information from the grantee sufficient to evaluate the appropriateness of a CE and determine whether ECs are present. If required, all consultation must be complete before NTIA may begin evaluation. Typically 3 – 6 months to develop and deliver to NTIA. Approximately **30-45 days** for NTIA to evaluate and issue a CE.



Environmental Assessment

Grant recipient will develop in coordination with NTIA, approximately **3-12 months** to develop and deliver to NTIA. All consultations must be complete before a Final EA may be published. Once approved by NTIA, a 30-day public comment period will be required, and NTIA will develop a FONSI.



Environmental Impact Statement

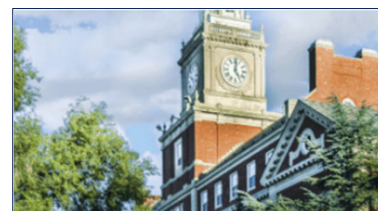
Grant recipient will develop in coordination with NTIA, extensive public involvement requirements apply, approximately **12 – 24 months** to develop and deliver to NTIA. Public comment periods will be required in accordance with NEPA. After the Final EIS public comment concludes, NTIA will develop a ROD.

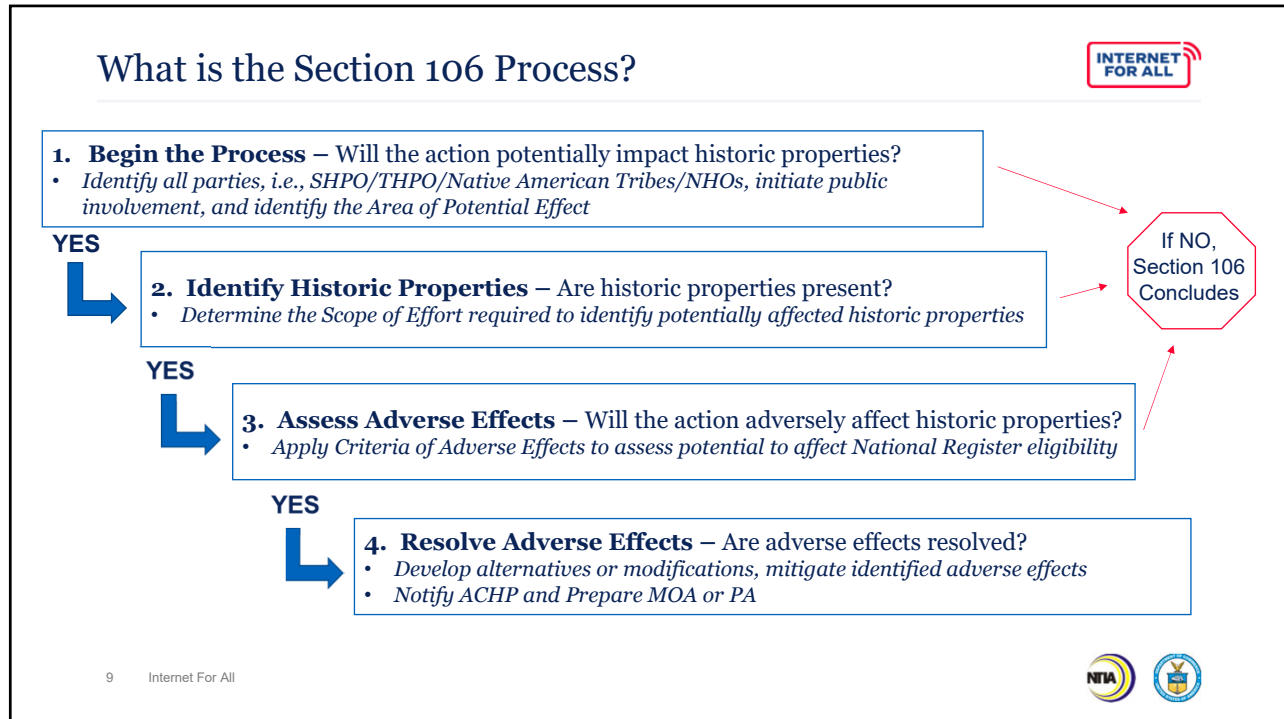


Section 106 of the NHPA



- Section 106 specifically requires federal agencies to consider the effects of projects they carry out, approve, or fund (“undertakings”) on historic properties
- Regulations issued by the Advisory Council on Historic Preservation (ACHP) govern the Section 106 review process
- Federal agencies initiate Section 106 review with the State Historic Preservation Office (SHPO) or Tribal Historic Preservation Office (THPO) for projects on Tribal lands
- Consulting parties, including potentially affected Tribes, participate in Section 106 consultations





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Project Descriptions & Best Practices

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Project Description



A good project description is essential for NTIA to determine the level of NEPA review required



Describe **what** the project is (e.g., construction of a 150' monopole communication tower)



Describe **where** the project is proposed (e.g., 123 Main Street, Anytown, USA) and/or provide a detailed outline of the route the project will use



Provide a physical description of the site and surrounding area (e.g. developed land vs. open space; adjacent natural resources, such as rivers, wetlands, or forests; and any protected lands)



Describe **how** the project will be implemented (e.g., requiring 1-acre of ground disturbance at an approximate depth of 5 feet, and the installation of a concrete pad, an equipment shed, and an emergency generator with a 1,000-gallon above-ground fuel storage tank)



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Best Practices for Minimizing Impacts



Grantees can do the following in the project planning process to avoid or minimize impacts to sensitive resources:

1. Consult the *U.S. Fish and Wildlife Service (USFWS) Revised Voluntary Guidelines for Communication Tower Design, Siting, Construction, Operation, Retrofitting, and Decommissioning* for any portion of your project that may require towers.
2. Reach out to federal land- or resource-managing agencies early, if applicable, to determine if your proposed project that crosses those lands is feasible. These agencies can include the US Forest Service, the Bureau of Land Management, the US Fish and Wildlife Service, the Bureau of Indian Affairs, the National Park Service, and others.
3. Consult the National Wetlands Inventory's Wetlands Mapper and the US Army Corp of Engineers (USACE) Nationwide Permit Information to understand the potential presence of wetlands in your project area, and whether USACE permits may apply.
4. Consult with your State Historic Preservation Office to inform project design.
5. Tribal engagement is required early in the process and often!

The most common factors that extend the EHP process are impacts to sensitive resources – understanding how to avoid or minimize those impacts is crucial for moving through the process efficiently



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EHP Responsibilities

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EHP Review Responsibilities



NTIA Responsibilities

- NTIA is responsible for determining the appropriate level of NEPA analysis and making the determination that the analysis is sufficient
- NTIA will provide guidance, sample documents, examples, and templates to clearly communicate requirements.
- NTIA will provide technical support and assistance and is responsible for making determinations regarding the level of NEPA analysis required for a project, as well as reviewing all documentation for technical and legal sufficiency.
- NTIA is responsible for generating and signing all final decision documents.

Grantee Responsibilities

- Grantees are critical partners in successful compliance with EHP requirements.
- Grantees are responsible for the development of the NEPA analyses and timely submission of materials
- Grantees should ensure that proposed project timelines and budgets account for EHP compliance

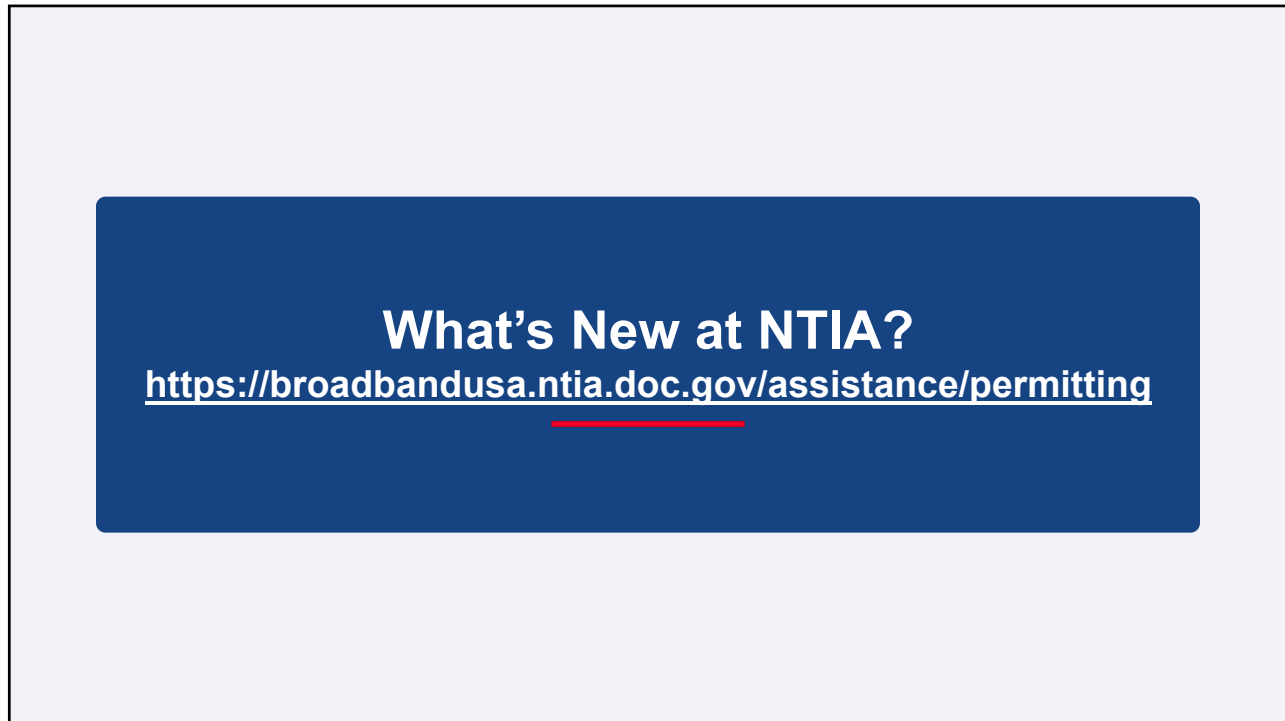


Consultations and Permitting



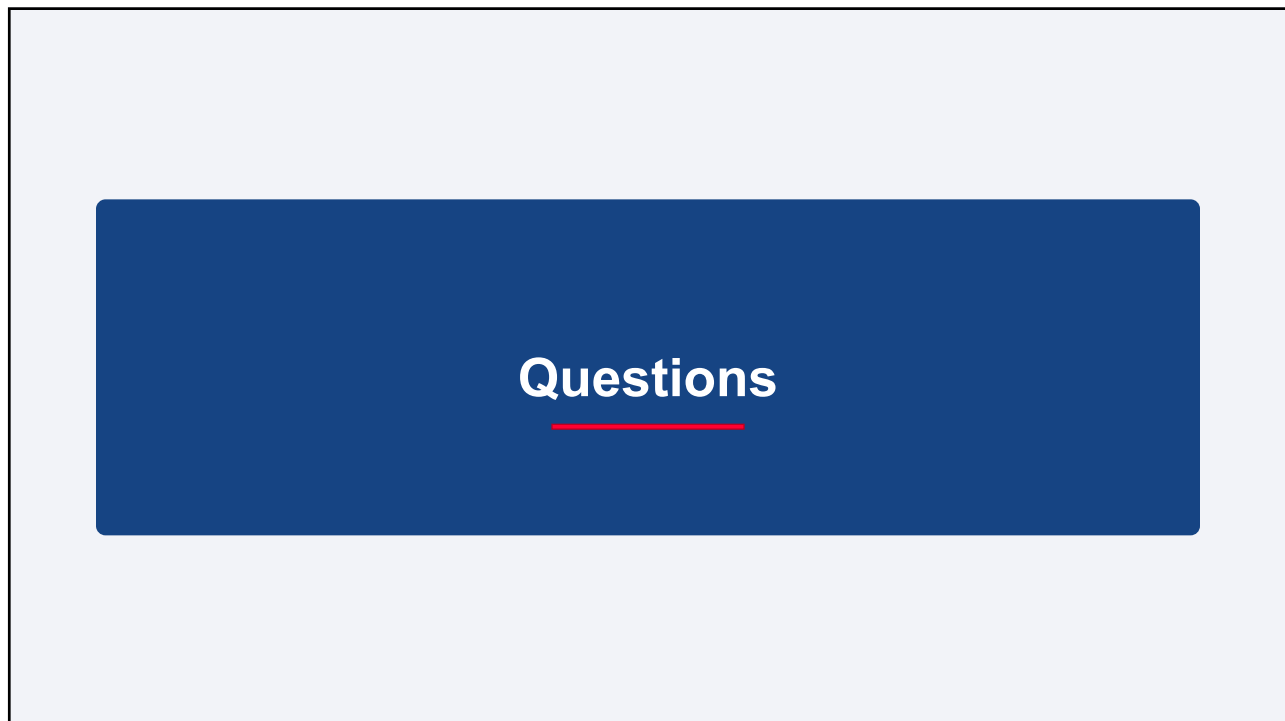
Federal	State	Regional & Local
<p>Depending upon the impact to resources, required federal permits and approvals may include the following:</p> <ul style="list-style-type: none"> ➢ US Army Corps of Engineers Section 10/404 – Impacts to wetlands and waterways of the US ➢ SHPO and/or THPO - Section 106 consultation ➢ US Coastal Zone Management - For project located within the Coastal Zone prepare a Consistency Review ➢ US Fish and Wildlife Service (USFWS) – Section 7 Consultation ➢ Hazardous Materials storage and transport (federal requirements for storage, marking, labeling under OSHA, and transportation under DOT) ➢ Hazardous Waste – compliance with EPA 40 CFR requirements for generation, transport and disposal 	<p>States have varying permitting requirements including:</p> <ul style="list-style-type: none"> ➢ State Environmental Quality or Protection Programs (EX: CEQA, MEPA, TCEQ) ➢ Stormwater ➢ Wetlands and Land Disturbing Permits ➢ Spill Prevention Control and Countermeasure (SPCC) (federal requirement but must apply to a state level) ➢ Hazardous Materials storage and transport (federal and state requirements may apply) 	<p>Regional and Local Entities have permitting and approval processes including:</p> <ul style="list-style-type: none"> ➢ Regional Planning organizations ➢ Local Noise and Idling ordinance
<p>Applicants are responsible for identifying and obtaining applicable Federal, State and Local permits required to conduct their project; not all permits need to be done for the NEPA process to conclude. Look to NTIA to determine what is needed prior to the conclusion of NEPA review. If consulted parties request to work directly with NTIA, NTIA will support required consultation activities. Government to Government Tribal consultation is to be initiated by NTIA.</p>		





What's New at NTIA?
<https://broadbandusa.ntia.doc.gov/assistance/permitting>

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Questions

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Thank You

