



# BROADBAND USA

CONNECTING AMERICA'S COMMUNITIES

Broadband Technology Opportunities Program

## NEPA and NHPA Guidance for Round Two Applicants

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Prepared for:

**National Telecommunications and Information Administration  
Broadband Technology Opportunities Program  
1401 Constitution Avenue, NW  
Washington, DC 20230**





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## Acronym List

Acronym	Description
ACHP	Advisory Council on Historic Preservation
ARRA	American Recovery and Reinvestment Act
BIP	Broadband Initiatives Program
BTOP	Broadband Technology Opportunities Program
CCI	Comprehensive Community Infrastructure
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
DD	Due Diligence
DOC	Department of Commerce
EA	Environmental Assessment
EIS	Environmental Impact Statement
EO	Executive Order
FCC	Federal Communication Commission
FONSI	Finding of No Significant Impact
M&A	Management and Administration
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act





Acronym	Description
NOA	Notice of Availability
NOI	Notice of Intent
NPA	Nationwide Programmatic Agreement
NRHP	National Register of Historic Places
NTIA	National Telecommunications and Information Administration
PCC	Public Computer Center
SAC	Special Award Condition
SBA	Sustainable Broadband Adoption
SHPO	State Historic Preservation Office
TCNS	Tower Construction Notification System
THPO	Tribal Historic Preservation Officer





## Terms and Definitions

Term	Definition
Adverse Effect	An abnormal, harmful, or undesirable effect that causes anatomical or functional damage, irreversible physical changes, or increases susceptibility to other biological, chemical, or environmental stresses. Adverse effects on historic properties include but are not limited to physical destruction of or damage to property, removal of property from its historic locations, and introduction or elements that diminish the integrity of the property's historic features.
Area of Potential Effect	The geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if such properties exist. The area of potential effects is influenced by the scale and nature of the undertaking and may be different for different kinds of effects caused by the undertaking.
Categorical Exclusion	A category of actions that has been determined by a Federal agency, based on its experience, to have no significant impact on the environment
Environmental Assessment	A concise public document that provides analysis regarding the impacts of a proposed action or alternatives, and may identify mitigation measures
Environmental Impact Statement	An in-depth analysis prepared regarding a project that will have significant impacts to the environment
Finding of No Significant Impact	A short NEPA document that presents the reasons why an action will not have a significant impact on the quality of the human environment and, therefore, will not require preparation of an EIS
Historic Property	Properties that are included in the <a href="#">National Register of Historic Places</a> or that meet the <a href="#">criteria for the National Register</a> ; the official federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. National Register properties have significance to the history of their





Term	Definition
	community state, or the nation.
Mitigation	Mitigation measures are those actions proposed to: avoid environmental impacts altogether; minimize impacts by limiting the degree or magnitude of the action; rectify the impact by repairing, rehabilitating, or restoring the affected environment; reduce or eliminate the impact over time by preservation; and/or compensate for the impact
Program Comment	A program comment is an alternative that allows a Federal agency to request the ACHP to comment on a category of undertakings in lieu of conducting individual reviews. The primary benefit of program comments is that it allows a Federal agency to comply with Section 106 of the NHPA in a single action for a class of undertakings rather than addressing each undertaking as a single action.
Significant Impact	A measure of the intensity and the context of effects of a major Federal action on, or the importance of that action to, the human environment (40 CFR 1508.27)





## Introduction to Guidance

This guide has been developed by the National Telecommunications and Information Administration (NTIA) to assist Broadband Technology Opportunities Program (BTOP) applicants in completing the processes required by the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA). NEPA and NHPA are laws that apply to all Federal actions, including those funded by Federal grants and matching funds. Therefore, NTIA and BTOP applicants must comply with certain requirements during the grant review, approval, and implementation processes.

NEPA requires that the Federal Government examine the potential environmental impacts of an action and its reasonable alternatives and NHPA requires that the Federal Government also examine the potential impacts of its actions to historic, cultural, and Tribal resources. Because these laws exist to improve the decision-making process, it is important that NEPA and NHPA requirements be complied with before final decisions are made that may have an impact on the environment, such as construction and other ground-disturbing activities.

Although it is the responsibility of NTIA to ensure that the requirements of these laws are met, applicants may be required to provide certain information; participate in discussions or consultations; obtain required permits, authorizations, and letters from appropriate governmental authorities; and complete required analyses so that the NTIA has the information it needs to make the decisions appropriate to each project award. The information you provide and your participation during this process is very important and can influence the final decisions concerning your application.

Although NEPA and NHPA are two separate and distinct processes, they can and should occur simultaneously. Section 1 of this document provides the applicant with a step-by-step guide to meeting NEPA requirements. Section 2 guides the applicant through the steps needed to fulfill NHPA requirements. Each section is preceded by a process flowchart to illustrate the steps that will be taken during the Environmental Review process and Section 106 review process.

Please note that this guide is provided as a brief, easy-to-understand guide for applicants to reference in understanding the processes of NEPA and NHPA as they apply to the BTOP grant approval process. It is not designed to be a comprehensive document of the requirements of NEPA and NHPA. For more complete information on the NEPA and NHPA processes, applicants should consult the references provided in Appendix C.





## 1 Introduction to the National Environmental Policy Act

NEPA was passed by Congress in 1969 and signed into law on January 1, 1970. This legislation established a landmark national environmental policy which, among other things, encourages environmental protection and informed decision-making. NEPA requires that all Federal agencies identify and evaluate the environmental consequences of proposed actions. Then, prior to taking any action, potential environmental consequences must be considered.

So what does NEPA have to do with applying for a BTOP grant? Applicants are required to provide NTIA with certain information regarding the potential impacts of their proposed project on the environment. The NEPA review process focuses on a policy of informed decision-making. There are several documents to assist with this process, which are discussed in the following sections. Prior to project implementation, the applicant may also need to obtain permits, authorizations, and letters from appropriate governmental authorities. NTIA will assist the applicant in identifying these requirements if they have not been met prior to the submission of the application. After an initial review of the application, NTIA or a consulting resource agency may ask the applicant to conduct additional studies in order to determine potential environmental impacts of the proposed project.

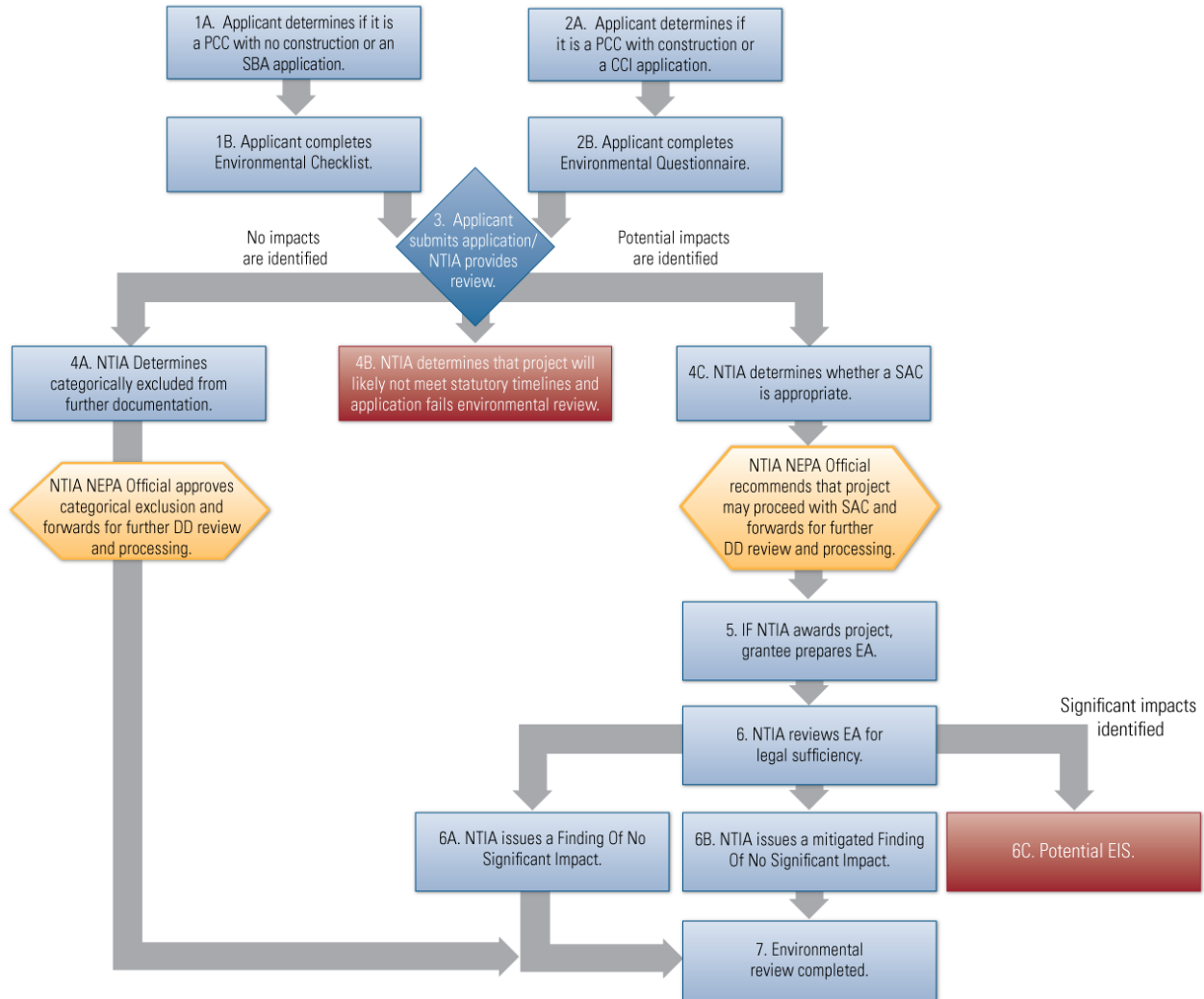
The flowchart on the following page illustrates the steps of the NEPA review process as it applies to BTOP applicants and award recipients. As you follow through the flowchart, each step is explained in more detail in the sections that follow. To go directly to the description of a particular step, you can simply click on that step in the flowchart.







Figure 1: The NEPA Review Process



### Step 1A: Applicant determines whether PCC Project with no Construction or SBA Project

In order for NTIA to identify the potential environmental impacts of proposed projects and ensure the level of environmental review required to comply with NEPA and Section 106 requirements, applicants must first provide specific project information. Depending on the type of application, this information is collected either through the Environmental Questionnaire or the Environmental Checklist.

To determine which type of application you have, consider that any application with construction costs in their cost breakdown or construction or ground disturbing activities in their project description is either a CCI (Infrastructure) or PCC with construction. SBA applications are not permitted to have a construction component.

If your application is a PCC with no construction or SBA, you must not have such activities as:

- Building construction related to prefabricated buildings
- Internal modifications or equipment additions to buildings and other structures (e.g. relocating interior walls or adding computer facilities)
- Construction and installation of buried cable





If you have determined that you have a PCC with no construction or SBA application, you are required to complete the Environmental Checklist.

### Step 1B: Applicant Completes Environmental Checklist

A completed Environmental Checklist is required for all non-construction applications. Non-construction applications are Public Computer Center (PCC) without any ground disturbance or Sustainable Broadband Adoption (SBA) projects. SBA applications are not permitted to have a construction component.

The purpose of the Environmental Checklist is to collect the basic information that NTIA needs to determine whether any potential impacts to the environment may result from the implementation of a project that does not include construction or ground disturbance. The Environmental Checklist also collects the basic information that NTIA needs to determine whether there are any potential impacts to historic and cultural resources from the implementation of the project.

Applicants must check responses on the Environmental Checklist with either a "Yes," "No," or "Not Applicable." Those questions not relevant must be checked as "Not Applicable." A "No" or "Not Applicable" response must be accompanied with an explanation or additional information. Responses must be consistent with the project description provided in the project application. Any inconsistencies between responses and the project description may require additional information. If additional information is needed, the applicant will be contacted by a reviewer and given seven days to respond.

Please note that your application is not considered complete, and therefore not reviewed, unless you have completed the Environmental Checklist in its entirety. Please do not leave any questions blank.

### Step 2A: Applicant determines whether CCI Project or PCC Project with Construction

In order for NTIA to identify the potential environmental impacts of proposed projects and ensure the level of environmental review required to comply with NEPA and Section 106 requirements, applicants must first provide specific project information. Depending on the type of application, this information is collected either through the Environmental Questionnaire or the Environmental Checklist.

To determine which type of application you have, consider that any application with construction costs in their cost breakdown or construction or ground disturbing activities in their project description is either a CCI (Infrastructure) or PCC with construction. SBA applications are not permitted to have a construction component.

Applicants with an application that is a CCI (Infrastructure) or PCC with construction must include both construction costs in their cost breakdown as well as detailed descriptions of the proposed construction activities. CCI (Infrastructure) or PCC construction applications may include (among others) such activities as:

- Building construction related to prefabricated buildings
- Internal modifications or equipment additions to buildings and other structures (e.g. relocating interior walls or adding computer facilities)
- Construction and installation of buried cable
- Installation of telecommunications transmission facilities including construction of new monopole towers, satellite dishes

If you have determined that you have a PCC with construction or CCI application, you are required to complete the Environmental Questionnaire.

### Step 2B: Applicant Completes Environmental Questionnaire

For all projects that include construction or ground disturbance, the applicant must submit an Environmental Questionnaire and supporting materials with the proposed project application (CCI or PCC with construction). To avoid delays in the review, the Environmental Questionnaire must accurately discuss all of the construction-related activities proposed in the application and the project description should be as thorough as possible. If you are required to complete an Environmental Questionnaire, the Questionnaire is submitted in place of the Environmental Checklist, because it is more comprehensive. The Environmental





Questionnaire also collects the basic information that NTIA needs to determine whether there are any potential impacts to historic and cultural resources from the implementation of the project.

The Environmental Questionnaire requires that the applicant provide NTIA with information on:

- Construction activities
- Maps
- Property changes
- Buildings
- Wetlands
- Critical habitats
- Floodplains
- Protected lands
- Coastal areas
- Brownfields

Please note that your application is not considered complete, and therefore not reviewed, unless you have completed the Environmental Questionnaire in its entirety. Please do not leave any questions blank. If any question is answered in a separate document, refer to that document in the Environmental Questionnaire.

### Step 3: Applicant Submits Application and NTIA Provides Review

If the application advances to due diligence as a highly qualified application, NTIA will review the information provided and determine the level of NEPA review and documentation required. During this time the NEPA review and the NHPA review of the project are conducted concurrently. The applicant may be contacted by project reviewers during the due diligence review process. In order to avoid delays in application processing, it is strongly recommended that the applicant provide reviewers with the requested information in a timely manner.

NTIA reviews applications that advance to the due diligence on a rolling basis to determine if the proposed projects qualify for categorical exclusions. If the proposed project does not individually or cumulatively have a significant effect on the environment and there is a category that covers it, no further analyses or documentation is required other than identifying the correct categorical exclusion (Step 4A). NTIA will make the determination as to which, if any, categorical exclusions apply to the proposed project. If a proposed project does not qualify for a categorical exclusion, then the applicant will be informed that further analysis is required; which may include: re-scoping of the proposed project, the preparation of an Environmental Assessment (EA), the completion of a permitting process, or the initiation of consultation activities with a resource agency for determination of impacts to a sensitive resource, such as wetlands or cultural and historic sites. NTIA will inform the applicant if the potential environmental impacts associated with the project are unlikely to be resolved within the statutory timeframes associated with the American Recovery and Reinvestment Act (ARRA) funding (Step 4B) or whether a special award condition (SAC) applies (Step 4C).

### Step 4A: NTIA Determines that a Categorical Exclusion Is Applicable

For a project to qualify for a categorical exclusion, it must fit the category description and must not have the potential for an adverse effect that cannot be mitigated or resolved (extraordinary circumstances). Extraordinary circumstances cause an action, that would otherwise qualify for a categorical exclusion, ineligible because of impacts to sensitive resources. In these instances, further analysis is required to determine the nature and extent of impacts. This analysis may take the form of an EA or initiation of the Section 106 process. Extraordinary circumstances include potential impacts to sensitive resources, such as, but not limited to:

- Wetlands
- Critical habitats
- Migratory birds
- Threatened or endangered species





- Floodplains
- Brownfields
- Coastal areas
- Hazardous waste sites
- Protected lands such as parks and lands managed by Federal agencies
- Cultural resources
- Historic properties

If the project qualifies for a categorical exclusion and there are no extraordinary circumstances or other environmental requirements identified, no further environmental documentation is required. Note that actions categorically excluded under NEPA are not excluded from review under Section 106 of NHPA, and it is possible for a project to receive a categorical exclusion for NEPA but still have to perform Section 106 consultations.

The eligible BTOP- and DOC-wide categorical exclusions are provided in Appendices A and B. The complete text of the Notice for DOC-wide categorical exclusions is located at [http://www.nepa.noaa.gov/DoC\\_CEs\\_FRN\\_07-10-2009.pdf](http://www.nepa.noaa.gov/DoC_CEs_FRN_07-10-2009.pdf). The complete text of the Administrative Record for Categorical Exclusions is located at [http://www.nepa.noaa.gov/DoC\\_CEs\\_AR\\_Final.pdf](http://www.nepa.noaa.gov/DoC_CEs_AR_Final.pdf). The complete text of the Notice for BTOP-wide categorical exclusions is located at [http://ceq.hss.doe.gov/nepa/NTIA\\_BTOP\\_CE\\_Federal\\_Register\\_Notice\\_07092009.pdf](http://ceq.hss.doe.gov/nepa/NTIA_BTOP_CE_Federal_Register_Notice_07092009.pdf).

NTIA determines the applicability of a categorical exclusion after review of the application and supporting documentation. The list of categorical exclusions is provided as a courtesy. It is not the responsibility of the applicant to identify what they consider to be the appropriate categorical exclusion for their application.

#### Step 4B: Application Fails Environmental Review

If NTIA determines that a proposed project has potentially significant environmental impacts, that are unlikely to be resolved within the statutory timeframes associated with ARRA funding, the application will fail the Environmental Review portion of the due diligence process. Typically, this is because of considerable environmental and/or cultural or historic issues that may not be feasible to address in an EA.

#### Step 4C: NTIA Determines that Special Award Conditions Are Appropriate

Special award conditions (SACs) may be used to allow for post-award compliance with NEPA, NHPA, and other applicable laws, regulations, and permitting requirements under BTOP. NTIA may use SACs to address a variety of compliance requirements. If a project is characterized by extraordinary circumstances that make it ineligible for a categorical exclusion, or if no categorical exclusion applies to the proposed action, then SACs are used for further environmental due diligence review. Note that it is possible for a project to receive a SAC and still have to perform Section 106 consultations.

If a SAC is used to address an environmental compliance requirement, the applicant may not expend any Federal funds other than Management and Administration (M&A) funds prior to completion of required compliance activities, analyses, and permitting requirements. M&A funds include funding of activities necessary for the completion of pre-construction project planning, including collecting environmentally related information; applications for environmental permits; studies such as an EA, archaeological surveys, or other required analyses; and required consultation activities. Actual project implementation (procurements, demolition, construction, ground disturbance, etc.) is not to begin prior to the completion of the requirements outlined in the SACs. SACs are awarded to the applicant of the proposed project, with the understanding that the completed analysis will be subject to NTIA review and approval for legal and technical sufficiency, before the project may begin implementation. All applicants have six months to complete the requirements, as outlined in the SACs. If more time is needed, the applicant must formally request an extension from NTIA. NTIA will determine if granting an extension is appropriate and proceed accordingly.

#### Step 5: Recipients Prepare Environmental Assessment

An EA is a detailed statement of the potential environmental impacts associated with the proposed project. Actions are analyzed in an EA if they are not categorically excluded, not covered in an existing environmental document, and do not require a more





substantial environmental study (such as an Environmental Impact Statement [EIS]). An EA assists NTIA in determining the extent to which the project may impact environmental, cultural, or historic resources. An EA may also identify ways to potentially minimize those impacts through mitigation or identification of a more environmentally preferable alternative.

The recipient may be required to prepare an EA for their proposed project, based on further due diligence review, under a SAC. As mentioned above, the EA must provide analysis that demonstrates that the proposed action would not have significant effects on the surrounding human or natural environment. Examples that may require an EA include: projects that have large amounts of ground disturbance (e.g., tower construction) and projects that may impact protected resources, such as wetlands, threatened and endangered species, and cultural and historic resources.

## Step 6: NTIA Reviews Environmental Assessment for Legal Sufficiency

NTIA reviews the EA for legal sufficiency. Typically the EA process concludes with a Finding of No Significant Impact (FONSI), a Mitigated FONSI, or a Notice of Intent (NOI) to prepare an EIS. Please consult the BTOP guidance document, *BTOP Environmental Assessment Guidance for Recipients*, for further guidance on the preparation of an EA.

### Step 6A: NTIA Issues a Finding of No Significant Impact

After reviewing the EA, NTIA determines whether the document sufficiently addresses the resource areas of concern and adequately identifies the potential areas of impact associated with the project. If NTIA determines that the proposed project does not significantly impact the human or natural environment, the Federal decision is documented in a Finding of No Significant Impact (FONSI). The FONSI summarizes the reasons why an action does not have a significant effect on the environment, and therefore, why further studies are not required. The FONSI only needs to provide a basis for the conclusion and document that NTIA agrees with the findings in the recipient's EA and believes there are no further significant impacts on the human and natural environment proposed by the action. Once a FONSI is completed and signed, and all other conditions are met, the recipient has completed the Environmental Review process.

Regulations require agencies to make a proposed FONSI available for public review for 30 days if the type of proposed action has not been done before by that particular agency, or if the action is something that might typically require a more comprehensive environmental study, such as the EIS. The FONSI is usually published in the *Federal Register*, and the Notice of Availability (NOA) of the FONSI will include information on how to provide comments. If the 30-day review period is not required, a FONSI may be published in a local newspaper or posted on the agency's Web site. NTIA will make the determination if the EA/FONSI requires a public comment period and the method of publication.

### Step 6B: NTIA Issues a Mitigated Finding of No Significant Impact

An EA may demonstrate that a proposed action has effects that are significant but could be reduced below the threshold of significance or avoided entirely through mitigation. A mitigated FONSI may be used, based on EA analysis, outlining required mitigation measures that must be implemented to ensure that impacts are not significant.

If the proposed action involves mitigation measures, those measures must be described in detail along with the analysis. Mitigation measures are plans to avoid, reduce, or minimize the effects of the proposed action and alternatives. Mitigation measures may include, but are not limited to:

- Avoiding the impact altogether by not taking a certain action or parts of an action
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment
- Reducing or eliminating the impact over time through preservation and maintenance operations during the life cycle of the action
- Compensating for the impact by replacing or providing substitute resources or environments

The FONSI must clearly identify whether the mitigation measures are needed to reduce effects to insignificance, describe those mitigation measures, and include monitoring measures for the proposed project. Mitigation measures that have been developed





through formal consultations with Federal, State, or Tribal entities must be submitted to NTIA for consideration and sufficiency review.

The mitigated FONSI documents that NTIA agrees with the findings in the recipient's EA and believes that the mitigation measures are adequate to reduce effects and/or provide monitoring to ensure implementation of the measures for the proposed action.

### Step 6C: Potential Environmental Impact Statement

Projects that cannot result in a FONSI or a mitigated FONSI normally require a more comprehensive study, such as an EIS. However, due to the timeframes associated with ARRA funding, a project requiring an EIS may not feasibly be awarded within the timeframes required under the BTOP. Therefore, the requirements associated with conducting an EIS are outside of the scope of this document.

### Step 7: Environmental Review Complete

The Environmental Review is only one of several steps contained in the due diligence process. A project cannot be implemented until the environmental SAC is resolved. In addition, there may be other BTOP Programmatic SACs or Project Specific SACs that apply and are outside the scope of this document. Once NTIA determines that the recipient has successfully completed the environmental process, NTIA will remove the environmental SAC from the award.







## 2 Introduction to the National Historic Preservation Act

The NHPA establishes a general policy of supporting and encouraging the preservation of historic properties and directs Federal agencies to assume responsibility for considering historic resources in their activities. To comply with NHPA, Federal agencies must consider the effects that any undertaking may have on historic properties. Agencies must also discuss actions that have potential for impact on historic properties with other specific parties who must be consulted. The process for assessing potential impacts and consulting with appropriate parties is outlined in Section 106 of NHPA.

Responsibility for complying with Section 106 of NHPA lies with NTIA, but the applicant will assist in carrying out this responsibility by gathering and submitting project-level information as indicated in the Environmental Questionnaire or Environmental Checklist. NTIA uses this information to determine the necessary actions for implementing the Section 106 process and may request additional information from the applicant if necessary. If potential adverse effects are identified, NTIA, in cooperation with the applicant, confers with the State Historic Preservation Office (SHPO) in their respective state or Tribal Historic Preservation Officer (THPO) and other consulting parties on ways to avoid or treat adverse effects to historic properties. Consultation with tribal entities may also be required if a proposed undertaking may affect historic properties that are either located on tribal lands, or when any Native American tribe or Native Hawaiian Organization (NHO) attaches religious or cultural significance to the historic property. The Section 106 process concludes either when NTIA determines that the proposed project does not have adverse effects on any historic properties or when NTIA and consulting parties agree upon measures to mitigate adverse effects on historic properties. Please note that the Section 106 review can be completed following grant award per the Nationwide Programmatic Agreement (NPA) with ACHP and other stakeholders through the use of SACs ([http://www.achp.gov/docs/PA\\_Nationwide\\_RUS.pdf](http://www.achp.gov/docs/PA_Nationwide_RUS.pdf)). However, no ground disturbance, construction, or other activity that may affect historic properties can start until NTIA has notified the applicant that the Section 106 review is complete.

The flowchart on the following page illustrates the steps of the NHPA review process as it applies to BTOP applicants and recipients. As you follow through the flowchart, each step is explained in more detail in the sections that follow. To go directly to the description of a particular step, you can simply click on that step in the flowchart.

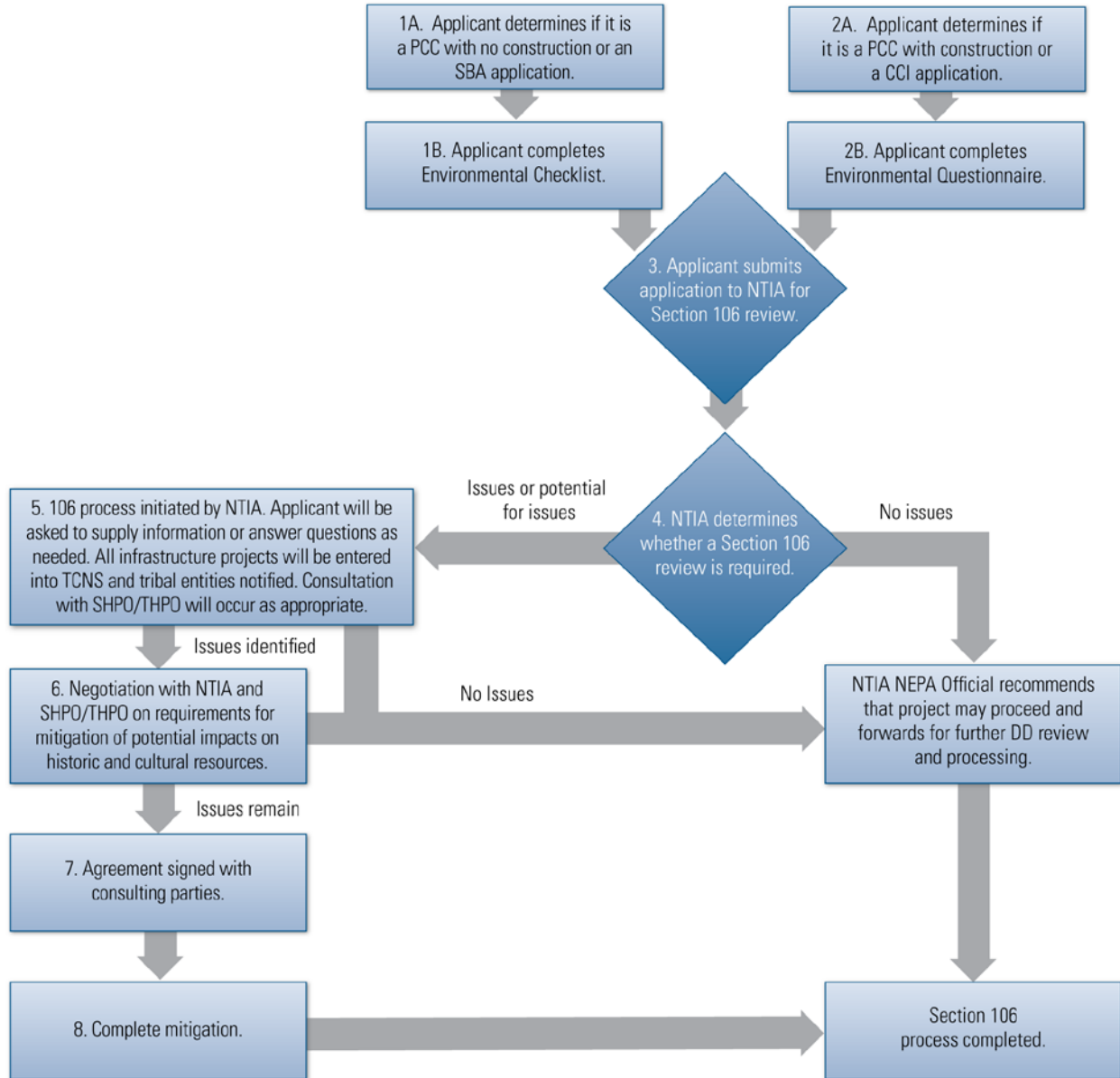
If you have any questions about the Section 106 process as it applies to BTOP, please contact:

Frank J. Monteferrante, Ph.D.  
Environmental Compliance Specialist  
National Telecommunications and Information Administration  
Tel. 202-482-4208  
Fax 202-501-8009  
[fmonteferrante@ntia.doc.gov](mailto:fmonteferrante@ntia.doc.gov)





**The NHPA Process**



\*BTOP SBA projects are exempted from Section 106 Review.

**Step 1A: Applicant determines whether PCC Project with no Construction or SBA Project**

In order for NTIA to identify the potential impacts of proposed projects to historic and cultural resources and ensure the level of review required to comply with Section 106 requirements of the NHPA, applicants must first provide specific project information. Depending on the type of application, this information is collected either through the Environmental Questionnaire or the Environmental Checklist.







To determine which type of application you have, consider that any application with construction costs in their cost breakdown or construction or ground disturbing activities in their project description is either a CCI (Infrastructure) or PCC with construction. SBA applications are not permitted to have a construction component.

If your application is a PCC with no construction or SBA, you must not have such activities as:

- Building construction related to prefabricated buildings
- Internal modifications or equipment additions to buildings and other structures (e.g. relocating interior walls or adding computer facilities)
- Construction and installation of buried cable

If you have determined that you have a PCC with no construction or SBA application, you are required to complete the Environmental Checklist.

### Step 1B: Applicant Completes Environmental Checklist

A completed Environmental Checklist is required for all non-construction applications. Non-construction applications are Public Computer Center (PCC) without any ground disturbance or Sustainable Broadband Adoption (SBA) projects. SBA applications are not permitted to have a construction component.

The purpose of the Environmental Checklist is to collect the basic information that NTIA needs to determine whether any potential impacts to historic and cultural resources may result from the implementation of a project that does not include construction or ground disturbance. The Environmental Checklist also collects the basic information that NTIA needs to determine whether any potential impacts to the environment may result from the implementation of the project.

Applicants must check responses on the Environmental Checklist with either a "Yes," "No," or "Not Applicable." Those questions not relevant must be checked as "Not Applicable." A "No" or "Not Applicable" response must be accompanied with an explanation or additional information. Responses must be consistent with the project description provided in the project application. Any inconsistencies between responses and the project description may require additional information. If additional information is needed, the applicant will be contacted by a reviewer and given seven days to respond.

Please note that your application is not considered complete, and therefore not reviewed, unless you have completed the Environmental Checklist in its entirety. Please do not leave any questions blank.

### Step 2A: Applicant determines whether CCI Project or PCC Project with Construction

In order for NTIA to identify the potential impacts of the proposed project to historic and cultural resources and ensure the level of review required to comply with Section 106 requirements, applicants must first provide specific project information. Depending on the type of application, this information is collected either through the Environmental Questionnaire or the Environmental Checklist.

To determine which type of application you have, consider that any application with construction costs in their cost breakdown or construction or ground disturbing activities in their project description is either a CCI (Infrastructure) or PCC with construction. SBA applications are not permitted to have a construction component.

Applicants with an application that is a CCI (Infrastructure) or PCC with construction must include both construction costs in their cost breakdown as well as detailed descriptions of the proposed construction activities. CCI (Infrastructure) or PCC construction applications may include (among others) such activities as:

- Building construction related to prefabricated buildings
- Internal modifications or equipment additions to buildings and other structures (e.g. relocating interior walls or adding computer facilities)
- Construction and installation of buried cable

If you have determined that you have a PCC with construction or CCI application, you are required to complete the Environmental Questionnaire.





## Step 2B: Applicant Completes Environmental Questionnaire

For all projects that include construction or ground disturbance, the applicant must submit an Environmental Questionnaire and supporting materials with the proposed project application (e.g., infrastructure). To avoid delays in the review, the Environmental Questionnaire must accurately discuss all of the construction-related activities proposed in the application. If you are required to complete an Environmental Questionnaire, the Questionnaire is submitted in place of the Environmental Checklist as it is more comprehensive. The Environmental Questionnaire also collects the basic information that NTIA needs to determine whether any potential impacts to the environment may result from the implementation of the project.

The Environmental Questionnaire requires that the applicant provide NTIA with information on:

- Construction activities
- Maps
- Property changes
- Buildings
- Wetlands
- Critical habitats
- Floodplains
- Protected lands
- Coastal areas
- Brownfields

If these topics have already been addressed in a separate Environmental Review document, then that document may be submitted and used to meet the Environmental Questionnaire requirements. However, any questions in the Environmental Questionnaire that are not specifically addressed in the Environmental Review document must be addressed separately and submitted to NTIA.

Please note that your application is not considered complete, and therefore not reviewed, unless you have completed the Environmental Questionnaire in its entirety. Please do not leave any questions blank. If any question is answered in a separate document, the Environmental Questionnaire must refer to that document.

## Step 3: Application Submitted for NTIA Review

Once the application package is complete, NTIA reviews the information provided and determines the best course of action. During this time the NEPA review and the NHPA review of the project are conducted concurrently. The applicant may be contacted by project reviewers during the review process. In order to avoid delays in application processing, it is strongly recommended that the applicant provide reviewers with the requested information in a timely manner.

If a PCC non-construction application has been reviewed by NTIA and found to have construction conditions associated with the proposed project, the applicant will be asked to complete an Environmental Questionnaire to determine potential environmental impacts. SBA applications are not permitted to have construction.

## Step 4: NTIA Determines Whether a Section 106 Review is Required

Once the applicant submits an Environmental Questionnaire or Checklist with all required supporting documents, NTIA identifies the potential impacts of the proposed project on historic properties, if any, and takes the necessary actions to comply with Section 106.

As indicated in the Environmental Questionnaire, the applicant must describe any historic properties that are located in or within close proximity to the project area and how they may be affected. The National Register of Historic Places (NRHP) was established by NHPA and is a comprehensive listing of historic sites, buildings, structures, districts, and objects. The applicant must identify any historic property listed in or eligible for the NRHP.

The applicant must obtain information about historic properties in the project area from the State Historic Preservation Office (SHPO) in their respective state or from the Tribal Historic Preservation Officer (THPO) when tribal lands are involved. The applicant may also reach out to qualified professionals, local governments, local historical societies, and anyone else who might





have information to determine what historic properties are in the project area. The applicant must record and submit with the Environmental Questionnaire any communication and information gathered from the SHPO/THPO or other parties.

If NTIA reviews the submitted information and determines that the proposed project does not have the potential to have an effect on a historic property, then Section 106 obligations are complete. If, however, NTIA determines that a historic property may be impacted by the project, the agency proceeds with the Section 106 process. Please note that historic properties considered in a Section 106 review include both those on the NRHP as well as those considered eligible.

NTIA may request additional information from the applicant if a determination on the impact to the historic property cannot be made based on the originally submitted documents.

### Step 5: NTIA Initiates Section 106 Process

The Section 106 process is a consultative process that involves other stakeholders in the decisionmaking process. To facilitate Section 106 compliance for BTOP, NTIA worked collaboratively with the Advisory Council on Historic Preservation (ACHP) and other stakeholder groups to create policies to streamline this consultative process. For projects which include tower construction or antennae collocation, NTIA signed a Program Comment with ACHP and the Federal Communication Commission (FCC) to allow NTIA to adopt the results of the FCC's Section 106 compliance process

([www.achp.gov/docs/ProgramCommentRUS\\_NTIA\\_FEMA.pdf](http://www.achp.gov/docs/ProgramCommentRUS_NTIA_FEMA.pdf)). This eliminates the need for a duplicative Section 106 review by NTIA for these projects.

In order to expedite review of ARRA projects, NTIA also signed a Memorandum of Understanding (MOU) with the FCC to allow the use of the FCC's Tower Construction Notification System (TCNS) for all broadband infrastructure projects specific to NTIA and the Rural Utility Service of the US Department of Agriculture. The TCNS notifies federally recognized tribes about proposed projects in their areas of interest and issues a letter to all tribes in that geographic area so that they may comment. These letters result in one of three outcomes:

1. The tribe has no concerns.
2. The tribe requests more information.
3. The tribe indicates an interest in consulting.

If the proposed project results in consultation, it is the responsibility of NTIA to complete the consultation process; however, the applicant is required to assist NTIA. Consultation refers to the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 process.

NTIA also signed an NPA with ACHP and other stakeholders allowing post-award compliance with Section 106, permitted through the use of SACs ([http://www.achp.gov/docs/PA\\_Nationwide\\_RUS.pdf](http://www.achp.gov/docs/PA_Nationwide_RUS.pdf)). However, no ground disturbance, construction, or other activity that may affect historic properties can start until NTIA has notified the applicant that the Section 106 review is complete. SBA and Broadband Over Powerline projects were also given exemptions from the Section 106 compliance requirements.

If NTIA concludes that the proposed project may have the potential to impact historic properties, the agency must engage the appropriate SHPO or THPO to assess any potential effects to the identified historic properties. This assessment results in one of three outcomes:

1. *No Historic Properties Affected:* The property is included in or eligible for the NRHP, but the proposed project does not impact it.
2. *No Adverse Effect:* The property is affected by the proposed project, but the impact is not adverse to the property.
3. *Adverse Effect:* The property is adversely affected by the proposed project. Adverse effects on historic properties include but are not limited to physical destruction of or damage to property, removal of property from its historic locations, and introduction of elements that diminish the integrity of the property's historic features.

Once NTIA makes an initial determination of the proposed project's effect, NTIA contacts the appropriate SHPO/THPO to begin consultation under Section 106. When the SHPO/THPO concur with the conclusion that there would be no impacts to historic properties, the Section 106 process is concluded. Finding of an adverse effect requires that NTIA, in cooperation with the applicant, carry out further consultation with the SHPO/THPO to resolve it. The SHPO/THPO can propose conditions to avoid adverse effects to historic properties.





While assessing effects, NTIA may request additional information from the applicant, specifically any communication and comments from the SHPO/THPO about the historic property that may have been omitted from or incomplete in the original submission.

### Step 6: Negotiation on Mitigation of Potential Effects

If there are adverse effects, NTIA, in cooperation with the applicant, continues its formal consultation process with the SHPO/THPO and other stakeholders on ways to avoid, minimize, or mitigate adverse effects to historic properties. When examining alternatives to implement a project, it is highly recommended that the process leading up to the selection of the best alternative is documented. Even informal documentation of the process, through meeting minutes, e-mails, and other notes, may prove to be very useful should the project require additional analysis.

The ACHP is an independent Federal agency established by NHPA to advocate and oversee full consideration of historic properties in Federal decision-making. In addition to the SHPO/THPO and ACHP, negotiations may include other parties with vested interest in the identified historic property as well as input from the public.

NTIA is obligated to provide project documentation to all consulting parties at the beginning of the negotiations to resolve adverse effects. The applicant is responsible for providing NTIA with sufficient documentation to facilitate these negotiations. If it is not present in the original submission, NTIA will work with the applicant to develop the appropriate documentation.

### Step 7: Agreement Signed with Consulting Parties

Negotiations lead to the resolution of an adverse effect when NTIA drafts a Memorandum of Agreement (MOA) with the SHPO/THPO, the project proponent (in this case, the applicant) and other relevant stakeholders. The MOA outlines agreed-upon measures that NTIA and the applicant will take to avoid, minimize, or mitigate the adverse effects of the proposed project. With the successful negotiation of an MOA, Section 106 compliance is complete.

### Step 8: Complete Mitigation

If a project requires mitigation under Section 106, the applicant provides NTIA with updates on NHPA-related activities as the project is implemented. These updates include any agreed-upon measures taken to mitigate effects on historic properties as well as any continued consultation with the SHPO/THPO or other consultation parties.

The applicant is obliged to follow the terms of the MOA as the project is implemented. Typical mitigation measures may include:

- Limiting the magnitude of the project
- Modifying the project through redesign, reorientation of construction on the project site, or similar changes
- Repairing, rehabilitating, or restoring affected historic properties
- Documenting (drawings, photographs, histories) buildings and structures that must be destroyed or substantially altered
- Recovering and recording archeological information and materials

If the scope of the project changes, the applicant must resubmit project information to NTIA for review to determine potential impact to historic properties and if additional consultation is required under Section 106.





### 3 Appendix A: BTOP-Eligible Categorical Exclusions

#### A. General Administrative Actions

Certain types of actions undertaken by BTOP will not normally require the completion of the BTOP/BIP NEPA Environmental Questionnaire. These categorically excluded proposals are:

A.1: The issuance of bulletins and information publications that do not concern environmental matters or substantial facility design, construction, or maintenance practices.

A.2: Procurement activities related to the operation of BTOP.

A.3: Personnel and Administrative Actions.

A.4: Purchase of existing facilities or a portion thereof where use or operation will remain unchanged.

A.5: Internal modifications or equipment additions (e.g., computer facilities, relocating interior walls) to structures or buildings.

#### B. Broadband Activities

Applications for financial assistance for the types of proposed actions covered in this section require the submission of an Environmental Questionnaire. Applicants shall sufficiently identify all proposed actions so their proper classification can be determined. Detailed descriptions shall be provided for each proposal noted in this section. BTOP may require additional information in addition to a description of what is being proposed, to ensure that proposals are properly classified. Proposed actions within this classification are:

B.1: Construction of buried and aerial telecommunications lines, cables, and related facilities.

B.2: Construction of microwave facilities involving no more than five acres (2 hectares) of physical disturbance at any single site.

B.3: Construction of cooperative or company headquarters, maintenance facilities, or other buildings involving no more than 10 acres (4 hectares) of physical disturbance or fenced property.

B.4: Changes to existing transmission lines that involve less than 20 percent pole replacement, or the complete rebuilding of existing distribution lines within the same right of way. Changes to existing transmission lines that require 20 percent or greater pole replacement will be considered the same as new construction.

B.5: Changes or additions to existing substations, switching stations, telecommunications switching or multiplexing centers, or external changes to buildings or small structures requiring one acre (0.4 hectare) or more but no more than five acres (2 hectares) of new physically disturbed land or fenced property.

B.6: Construction of substations, switching stations, or telecommunications switching or multiplexing centers requiring no more than five acres (2 hectares) of new physically disturbed land or fenced property.

B.7: Changes or additions to microwave sites, substations, switching stations, telecommunications switching or multiplexing centers, buildings, or small structures requiring new physical disturbance or fencing of less than one acre (0.4 hectare).

B.8: Ordinary maintenance or replacement of equipment or small structures (e.g., line support structures, line transformers, microwave facilities, telecommunications remote switching and multiplexing sites).

B.9: The construction of telecommunications facilities within the fenced area of an existing substation, switching station, or within the boundaries of an existing electric generating facility site.

B.10: Testing or monitoring work (e.g., soil or rock core sampling, monitoring wells, air monitoring).

B.11: Studies and engineering undertaken to define proposed actions or alternatives sufficiently so that environmental effects can be assessed.

B.12: Rebuilding of power lines or telecommunications cables where road or highway reconstruction requires the applicant to relocate the lines either within or adjacent to the new road or highway easement or right-of-way.





B.13: Phase or voltage conversions, reconductoring or upgrading of existing electric distribution lines, or telecommunication facilities.

B.14: Construction of standby diesel electric generators (one megawatt or less total capacity) and associated facilities, for the primary purpose of providing emergency power, at an existing applicant headquarters or district office, telecommunications switching or multiplexing site, or at an industrial, commercial, or agricultural facility served by the applicant.





## 4 Appendix B: DOC-Eligible Categorical Exclusions

A.1: Minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities that do not result in a change in the functional use of the real property (e.g., realigning interior spaces of an existing building, adding a small storage shed to an existing building, retrofitting for energy conservation, or installing a small antenna on an already existing antenna tower that does not cause the total height to exceed 200 feet and where the FCC would not require an environmental assessment or environmental impact statement for the installation).

A.2: New construction upon or improvement of land where all of the following conditions are met:

- (a) The site is in a developed area and/or a previously disturbed site;
- (b) The structure and proposed use are compatible with applicable Federal, Tribal, State, and local planning and zoning standards and consistent with Federally approved State coastal management programs;
- (c) The proposed use will not substantially increase the number of motor vehicles at the facility or in the area;
- (d) The site and scale of construction or improvement are consistent with those of existing, adjacent, or nearby buildings; and
- (e) The construction or improvement will not result in uses that exceed existing support infrastructure capacities (roads, sewer, water, parking, etc.).

A.3: Software development, data analysis, or testing, including but not limited to computer modeling in existing facilities.

A.4: Siting/construction/operation of microwave/radio communication towers less than 200 feet in height without guy wires on previously disturbed ground.

A.5: Retrofit/upgrade existing microwave/radio communication towers that do not require ground disturbance.

A.6: Adding fiber optic cable to transmission structures or burying fiber optic cable in existing transmission line rights-of-way.

A.7: Acquisition, installation, operation, and removal of communications systems, data processing equipment, and similar electronic equipment.

A.8: Planning activities and classroom-based training and classroom-based exercises using existing conference rooms and training facilities.

A.9: Purchase of mobile and portable equipment and infrastructure which is stored in previously existing structures or facilities.

A.10: Siting, construction (or modification), and operation of support buildings and support structures (including, but not limited to, trailers and prefabricated buildings) within or contiguous to an already developed area (where active utilities and currently used roads are readily accessible).

A.11: Personnel, fiscal, management, and administrative activities, such as recruiting, processing, paying, recordkeeping, resource management, budgeting, personnel actions, and travel.







## 5 Appendix C: Additional Guidance Documents and Web Sites

For additional reference, this appendix contains links to related laws, regulations, guidance, and information sources relating to environmental and historic preservation compliance for federal or federally funded projects.

### Advisory Council on Historic Preservation

<http://www.achp.gov/>

### Archeology and Historic Preservation Act

[http://www.nps.gov/history/local-law/fhpl\\_archhistpres.pdf](http://www.nps.gov/history/local-law/fhpl_archhistpres.pdf)

### Council on Environmental Quality (CEQ)

<http://www.whitehouse.gov/ceq/>

### CEQ NEPA Guidance

<http://ceq.hss.doe.gov/nepa/regs/guidance.html>

### CEQ Regulations for Implementing NEPA, 40 Code of Federal Regulations 60-4

[http://ceq.hss.doe.gov/Nepa/regs/ceq/toc\\_ceq.htm](http://ceq.hss.doe.gov/Nepa/regs/ceq/toc_ceq.htm)

### Department of Interior Standards for Archeology and Historic Preservation

[http://www.nps.gov/history/local-law/arch\\_stnds\\_0.htm](http://www.nps.gov/history/local-law/arch_stnds_0.htm)

### Emergency Wetlands Resources Act (303)

<http://www.fws.gov/policy/660fw4.html>

### Endangered Species Act (Section 7)

<http://epw.senate.gov/esa73.pdf>

### Environmental Justice in Minority and Low-Income Populations, Executive Order (EO) 12898

<http://www.epa.gov/oswer/ej/html-doc/execordr.htm>

### Floodplain Management, EO 11988

<http://www.archives.gov/federal-register/codification/executive-order/11988.html>







**Indian Trust Resources**

<http://www.doi.gov/bia>

**National Environmental Policy Act**

<http://ceq.hss.doe.gov/Nepa/regs/nepa/nepaegja.htm>

**NEPA's 40 Most Asked Questions**

<http://www.nepa.gov/nepa/regs/40/40p3.htm>

**National Historic Preservation Act**

<http://www.achp.gov/nhpa.html>

**National Oceanic and Atmospheric Administration**

<http://www.noaa.gov/>

**National Register of Historic Places**

<http://www.cr.nps.gov/nr>

**State Historic Preservation Officers**

<http://www.achp.gov/shpo.html>

**State Liaison Offices**

[http://www.nps.gov/ncrc/programs/lwcf/contact\\_list.html](http://www.nps.gov/ncrc/programs/lwcf/contact_list.html)

**Tribal Historic Preservation Officers**

<http://www.achp.gov/thpo.html>

**U.S. Department of Commerce**

<http://www.commerce.gov/>

**U.S. Environmental Protection Agency**

<http://www.epa.gov>





**U.S. Fish and Wildlife Service**

<http://www.fws.gov/>

**Wetlands Protection, EO 11990**

<http://www.archives.gov/federal-register/codification/executive-order/11990.html>

**Wild and Scenic Rivers Act**

<http://www.rivers.gov/wsract.html>

