



Federal  
Communications  
Commission

# NEPA Compliance for Positive Train Control

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# Overview of NEPA

- Federal agencies must consider significant environmental impacts of major federal actions
  - Incorporates compliance with other federal environmental statutes
- If action may have a significant environmental impact, an Environmental Assessment (EA) must be prepared
- Agency must issue a Finding Of No Significant Impact (FONSI) before action can proceed
  - If agency can't issue FONSI, Environmental Impact Statement required

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# FCC NEPA Rules

- EA required under two circumstances
  - Action meets one or more of specific criteria stated in rules
  - FCC orders EA in response to petition or on own motion
- Requirement applies independent of any Section 106 exclusion
- Collocations are generally excluded (with defined exceptions)

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## FCC Triggers for EA

- May affect historic properties or Indian religious sites
  - Required if adverse effect found through Section 106 process
- May affect threatened or endangered species
  - Required if USFWS required formal consultation and Biological Assessment
- Located in 100-year floodplain

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## FCC Triggers for EA (2)

- Located in designated wilderness area or wildlife preserve
- Significant change in surface features (typically wetland fill)
- High intensity white lights in residentially zoned neighborhood
- Radiofrequency exposure in excess of FCC guidelines
- Structure over 450 feet tall

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## Contents of EA

- Must address all factors in 47 CFR 1.1307(a) and (b)
- Specific expectations for each factor spelled out in EA checklist
- Checklist tailored to PTC wayside poles posted at <http://www.fcc.gov/encyclopedia/positive-train-control-ptc>

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# Contents of EA – Endangered Species

- Protected species not present
  - Relevant documentation (typically IPaC response)
- Protected species present but not affected
  - Determination by USFWS or own qualified biologist
- Not likely to Adversely Affect protected species
  - USFWS concurrence
- Likely to Adversely Affect protected species
  - USFWS incidental take statement

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# **Contents of EA – Historic Properties/Indian Religious Sites**

- TCNS file number or alternative agreement(s)
- If excluded, basis for exclusion
- If no adverse affect, SHPO/Tribal Nation concurrences or explanation of why concurrences not needed
- If adverse effect, Adverse Effect Agreement or FCC decision on avoidance/mitigation
- All relevant correspondence

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# Contents of EA – Floodplain/Wetland

- 100-year floodplain
  - FEMA map
  - If in floodplain, showing construction will be at least 1 foot above floodplain
- Wetland fill
  - USACE map
  - If in wetland but no fill, showing no fill is needed
  - If wetland fill, USACE permit or other authorization

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# Contents of EA – Other Factors

- Wilderness area/wildlife preserve
  - Relevant databases, maps, etc.
  - If in protected area, relevant approvals or permits
- High-intensity white lights
  - Showing will not use high-intensity white lights or not in residentially zoned area
- Radiofrequency exposure
  - Showing of compliance with Commission guidelines

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## Filing of EAs

- File as attachment to FCC form 601
  - Recommended separate attachments for body of EA and each supporting document or group of related documents
- Electronic filing in Universal Licensing System (ULS) preferred
  - Requires FCC Registration Number (FRN) associated with license
  - Class 1 freights can get FRN from PTC-220

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## Manual Filing Alternative

- If FRN not available, email completed form 601 with attachments to [PTCQuestions@fcc.gov](mailto:PTCQuestions@fcc.gov)
  - Request waiver of electronic filing and signature rules 1.913(b), 1.917(a), 1.917(d) (Questions 11a and 11b)
  - Include separate attachment stating justification for waiver
- FCC staff will upload application into ULS

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## **EAs Covering Multiple Sites**

- Up to 999 sites can be addressed in a single EA attached to a single form 601
  - Must all be associated with same license
  - Fact patterns should be sufficiently similar for easy understanding
- Complete a separate Schedule D for each site

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## Recommended Additional Attachments

- NEPA cover sheet
- TCNS summary
- Attach multiple versions if information not the same for all sires in submission

**Railroad:**

**State(s)/County(ies):**

**Sites Covered:** [List coordinates]

NEPA Category	May Have Significant Impact (Y/N)?	Pages in EA	Attachment(s)
Designated Wilderness Area			
Designated Wildlife Preserve			
Threatened or Endangered Species & Critical Habitats			
Historic Properties			
Indian Religious Sites			
Floodplain			

**Significant Changes to Surface Features (wetland fill, deforestation, water diversion)**

**High-intensity white lights in residential neighborhood**

**RF exposure in excess of FCC guidelines**

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**Railroad:**

**State(s)/County(ies):**

**Sites Covered:** [list coordinates]

**Method Concluded**

<b>Tribe Name</b>	<b>TCNS Notation No Reply Means No Interest</b>	<b>Tribe Agreed No Further Pre- Construction Process Required (include date and nature of memorializing document)</b>	<b>Tribe Did Not Reply to Contacts and FCC Did Not Direct Further Tribal Participation (include date referred to FCC)</b>	<b>FCC Decision (include date)</b>	<b>Relevant Attachment(s)</b>
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## Processing of EAs

- Placed on Public Notice within one week
- 30-day comment period
- Staff may request additional information
  - Will not delay processing if timely response and no material change
- If no issues or petitions to deny, FONSI ordinarily granted within 45 days
- Can sever application if petition filed against fewer than all sites

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# Additional Information/Assistance

- <http://www.fcc.gov/encyclopedia/positive-train-control-ptc>
- [PTCQuestions@fcc.gov](mailto:PTCQuestions@fcc.gov)
- ULS Support: <https://esupport.fcc.gov/request.htm> or (877) 480-3201
- Don Johnson, [Donald.johnson@fcc.gov](mailto:Donald.johnson@fcc.gov), (202) 418-7444
- Jeffrey Steinberg, [Jeffrey.steinberg@fcc.gov](mailto:Jeffrey.steinberg@fcc.gov), (202) 418-0896