



National Park Service  
U.S. Department of the Interior  
WASO, Cultural Resources

# FCC Environmental & HP Compliance Training: Communication Towers & NPS Lands



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# National Historic Preservation Act of 1966 (NHPA) [16 U.S.C.470(b)]



## National Historic Preservation Act of 1966

AS AMENDED

This Act became law on October 15, 1966 (Public Law 89-665, October 15, 1966; 16 U.S.C. 470 et seq.). Since enactment, there have been 22 amendments. This description of the Act, as amended, follows the language of the United States Code except that (in common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code. This description also excludes some of the notes found in the Code as well as those sections of the amendments dealing with completed reports.

16 U.S.C. 470,  
Short title of the Act,  
Congressional finding  
and declaration of policy  
16 U.S.C. 470(b),  
Purpose of the Act

### Section 1

(a) This Act may be cited as the "National Historic Preservation Act."

(b) The Congress finds and declares that—

- (1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;
- (2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;
- (3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;
- (4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;
- (5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;
- (6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

## Section 106 of National Historic Preservation Act (NHPA):

- Is a review process that involves consultation with others outside of the project proponent (e.g., SHPOs, THPOs, Tribes, other federal agencies, local govts, HP organizations, & public);
- Does not guarantee a historic preservation outcome

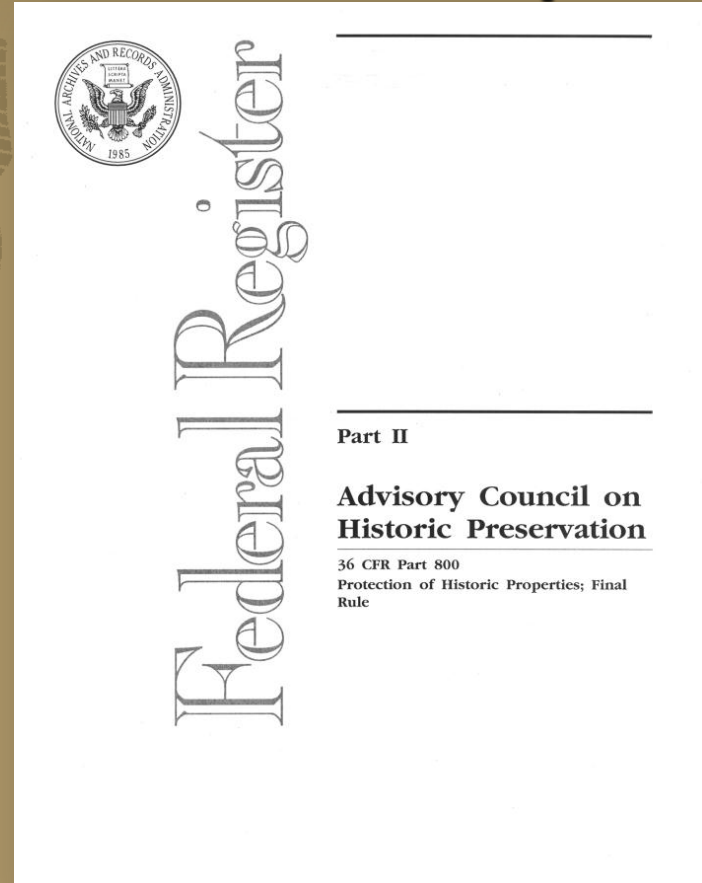


## **Section 106 requires all Federal agencies to do the following:**

- 1. Take into account effects of their undertakings on historic properties; &**
- 2. Provide Advisory Council on Historic Preservation (ACHP) with a reasonable opportunity to comment on such undertakings**



# ACHP's Section 106 Regulations 36 CFR Part 800 (2004)



# When Is Section 106 Required?

- There is a Federal undertaking (i.e., federal agency is involved); and
- There is potential to affect historic properties if they are present

# **Under Section 106, what is a historic property?**

**For Section 106 purposes, a historic property is one that is either included in or eligible for inclusion in National Register of Historic Places (NRHP)**



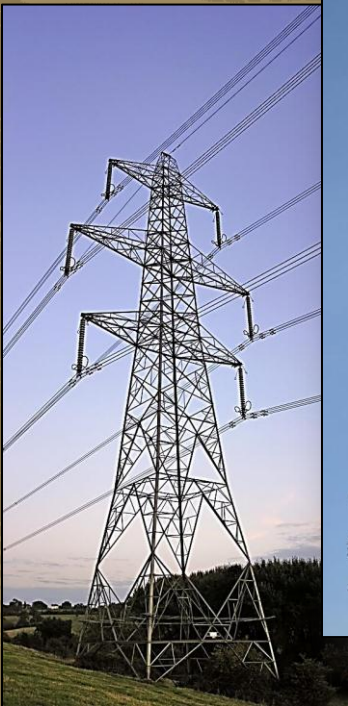
# Consequences of Failing to Fully Comply with Section 106 of NHPA

There are no criminal or civil penalties for non-compliance with Section 106, but there are consequences, including:

- Unfavorable media attention;
- Lawsuits, which can lead to further delays, court injunctions, & additional project cost;
- Judge may order federal agency to re-do all or parts of its Section 106 compliance; &
- Federal agency may need to pay plaintiff's litigation costs if lawsuit is successful

# Adverse Effect Criteria Commonly Applied to Utility/Tower Projects

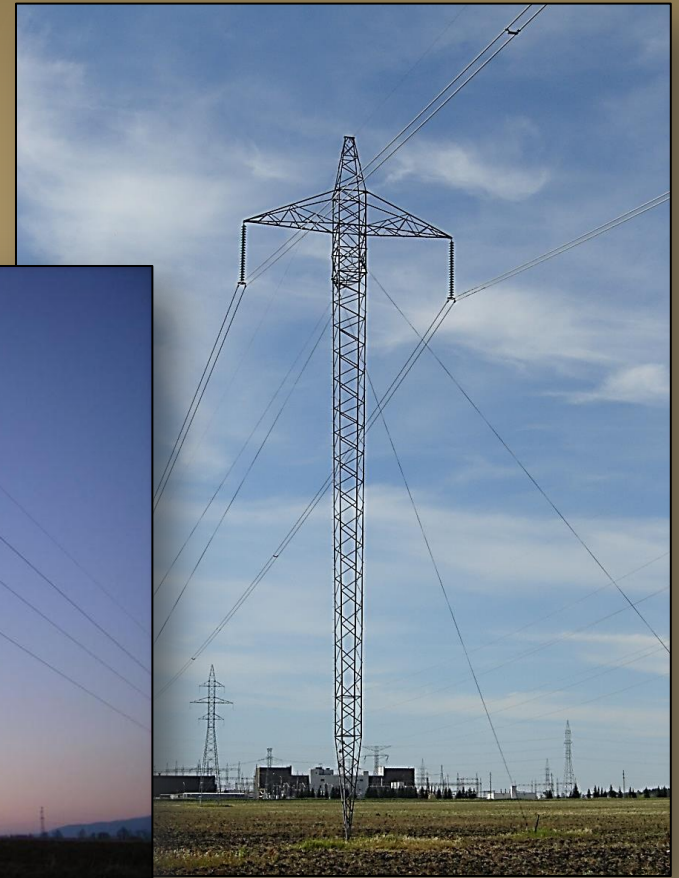
- Damage, destruction, or removal of historic properties (tower, access roads, and support buildings)
- Change in character of historic property use or setting
- Introduction of audible, visual, or atmospheric elements



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# Transmission Line Projects



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# Wind Farm Projects



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# Photovoltaic or PV Solar Projects





# Concentrated Solar or Heliostat Projects



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# Solar Furnace at Odeillo, France



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# Gettysburg Tower



- 307-foot observation tower constructed in 1973-74 by private developer
- NPS opposed the tower's original location
- NPS worked with developer to change location
- NPS consented to provide 22-ft vehicular & pedestrian r.o.w.
- NPS sought ACHP comment in 1972
- ACHP: "adverse effect!"
- Commonwealth of PA sued Dept of Interior & NPS
- Federal court dismissed complaints, but issued formal request to Interior Secretary to explain failure of DOI to issue EIS;
- In 1990, fed govt condemned property thru eminent domain & NPS demolished tower 10 years later



# NPS EIS for Susquehanna to Roseland Transmission Line Project

## Environmental Impact Statement

Appalachian National Scenic Trail  
Delaware Water Gap National Recreation Area  
Middle Delaware National Scenic and Recreational River



## Issues and Impacts

### Natural Resources

Enjoy the **natural resources** of Pennsylvania and New Jersey. Hogback Ridge is a unique and important habitat, containing distinctive geology and a rich variety of flora and fauna. The geology of Hogback Ridge is dominated by limestone, which is exposed in many areas; the ridge supports eastern hemlock – northern hardwood forest and limestone dependent plants such as walking fern. This area also contains extensive wetlands and dry sand habitats in the lower elevations. These different habitats create significant contributions to the biological diversity of Pennsylvania and New Jersey, as they support numerous plant and animal species of special concern.



### Scenic and Historic Resources

APPA, DEWA, and MDSR offer extensive visual resources via numerous trails and recreational areas. **Scenic resources** and **viewsheds** of these NPS units include Open areas and vistas of the Appalachian Trail and spectacular views of fall colors (DEWA was rated as one of the top ten national parks to view fall color for 2009).

**Historic resources** of DEWA include Millbrook, Old Mine Road, and Peters Valley.



### Impacts to the Viewshed

- Rebuilding the existing Susquehanna to Roseland 230 kV transmission line by adding a 500 kV circuit would involve removing existing structures and replacing them with taller, modern structures.
- The new transmission line structure would project above the forest canopy, increasing the visual impact of the line. Taller structures would represent a noticeable change to visitors, including those using the Delaware River from kayaks, rafts, canoes, and other water craft.
- The river segment over which the transmission line would pass is designated as "scenic" under the Wild and Scenic River Act. Changes to the river's scenic resources would occur and would be apparent to recreational boaters on the Delaware River.
- Disruptions in the continuity of the hillside vegetation and/or noticeable increases in the height of existing structures would occur. Affects to historic architectural properties (buildings, structures, and historic districts) and any cultural landscapes would primarily be visual, created by installation of new towers where none exist, of higher towers where shorter towers now exist, and by clearing forested land.

### A transmission line can affect aesthetics by:

- removing a resource, such as clearing fence rows that provide visual relief in a flat landscape;
- degrading the surrounding environment, intruding on the view of a landscape; or
- enhancing a resource, evoking an image of economic strength in a developing business or industrial area.



**Backgrounding** occurs when transmission lines and corridors do not exceed the height of background vegetation or topography and are visually absorbed by the landscape. Transmission corridors below public viewing angles have less impact.

**Skylining** occurs when structures and conductors are highly visible against the sky. Structures can block a long-distance view and impact the aesthetic qualities of a landscape. Vegetation can no longer "absorb" and de-emphasize visual impact when transmission structures exceed the height of the background vegetation and topography.



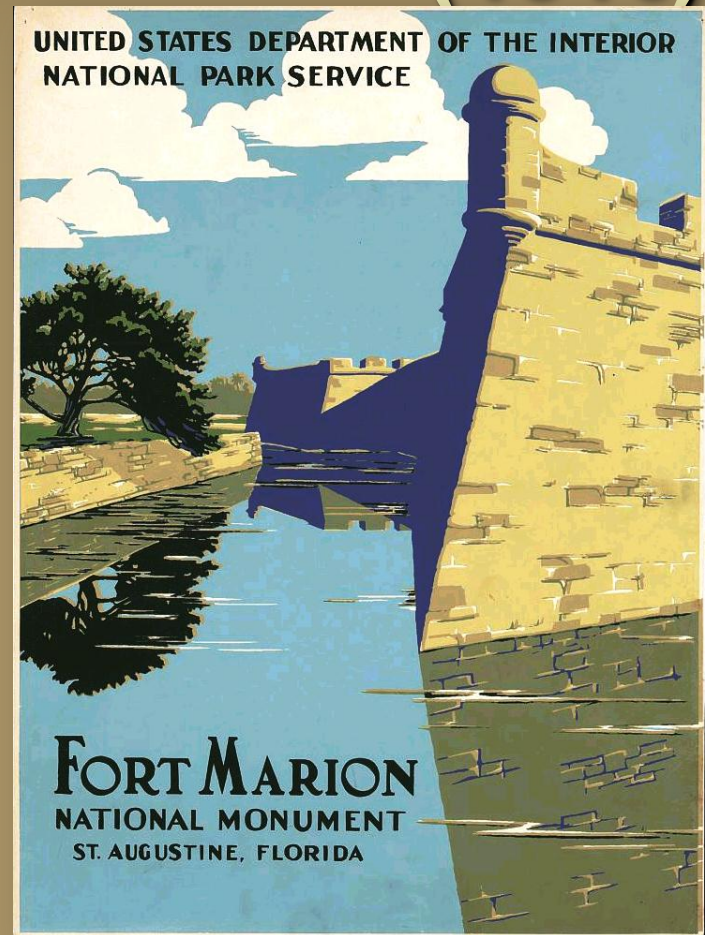
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# Creation of National Park Service (1916)

## NPS Organic Act of 1916 (39 Stat. 535, 16 U.S.C. 1)

“The service . . . shall promote & regulate use of Federal areas known as national parks, monuments, & reservations . . . by such means & measures as conform to fundamental purpose--to conserve scenery & natural & historic objects & wild life therein & to provide for enjoyment of same in such manner & by such means as will leave them unimpaired for enjoyment of future generations” (Section 1, NPS Organic Act).



*PWA Poster for Castillo San Marcos, St. Augustine, FL*

# Organic Act's Applicability to NPS Land Management Affirmed by Courts

"In the Organic Act, Congress speaks of but a single purpose for the National Park Service, namely, conservation of the scenery and the natural and historic objects."

**Source:** Memorandum and Order of Jackson, District Judge, U.S. District Court, District of Columbia, in *National Rifle Association of America v. Potter*, 628 F. Supp. 903 (D.D.C. 1986), pg. 909.



# NPS Management Policies (2006)

## Management Policies 2006

### Land Protection

*The National Park Service will use all available authorities to protect lands and resources within units of the national park system, and the Park Service will seek to acquire nonfederal lands and interests in land that have been identified for acquisition as promptly as possible. For lands not in federal ownership, both those that have been identified for acquisition and other nonfederally owned lands within a park unit's authorized boundaries, the Service will cooperate with federal agencies; tribal, state, and local governments; nonprofit organizations; and property owners to provide appropriate protection measures. Cooperation with these entities will also be pursued, and other available land protection tools will be employed when threats to resources originate outside boundaries.*

3

Appropriate land protection methods must be applied to protect park resources and values from incompatible land uses.

NPS "is required by 1916 Organic Act to protect & preserve unimpaired resources & values of natl park system while providing for public use & enjoyment. . . .

Boundaries of most park units are not based strictly on ecological processes or other resource protection principles, & park units are increasingly subject to impacts from external sources. Examples include . . . loss of scenic vistas & natural quiet. . . . External threats may be addressed by using available tools—such as . . . participation in planning processes of [other] federal agencies. . . . Strong fulfillment of NPS responsibilities is required by NEPA, NHPA, & other applicable laws to minimize impacts on park resources & values. . . ."

Abraham Lincoln  
Quarries Alley  
Appalachian  
Badlands Basin  
Bighorn Canyon  
Boston Boston  
Buck Island Reef  
Hatteras Cape  
Carter G. Woodson  
Cedar Creek &  
& Ohio Canal  
Colorado  
Cumberland Island  
Delaware Water  
Edison Effigy  
Fire Island  
Dorchester Fort  
Fort Raleigh  
Fort Washington  
Fredericksburg  
General Grant  
Memorial Park  
Governors Island  
River Great Salt  
Hagerman Fossil  
Herbert Hoover  
Hopewell Furnace  
Isle Royale  
John D. Rockefeller  
Joshua Tree  
Kings Mountain  
Lake Meredith  
Malheur Lincoln  
Lower  
Lyndon B. Johnson  
Mesa Verde  
Montezuma  
Parkway National  
New Bedford  
North Cascades  
Palisades  
Pictured Rocks  
William Forest  
Rock Creek  
Sagamore Hill  
Salinas Pueblo  
Monica Mount  
Springfield  
Kosciuszko  
Island Thomas  
Airmen Tuskegee  
Vanderbilt  
Canyon War  
White Sands  
Memorial Wreath



# Communication Projects



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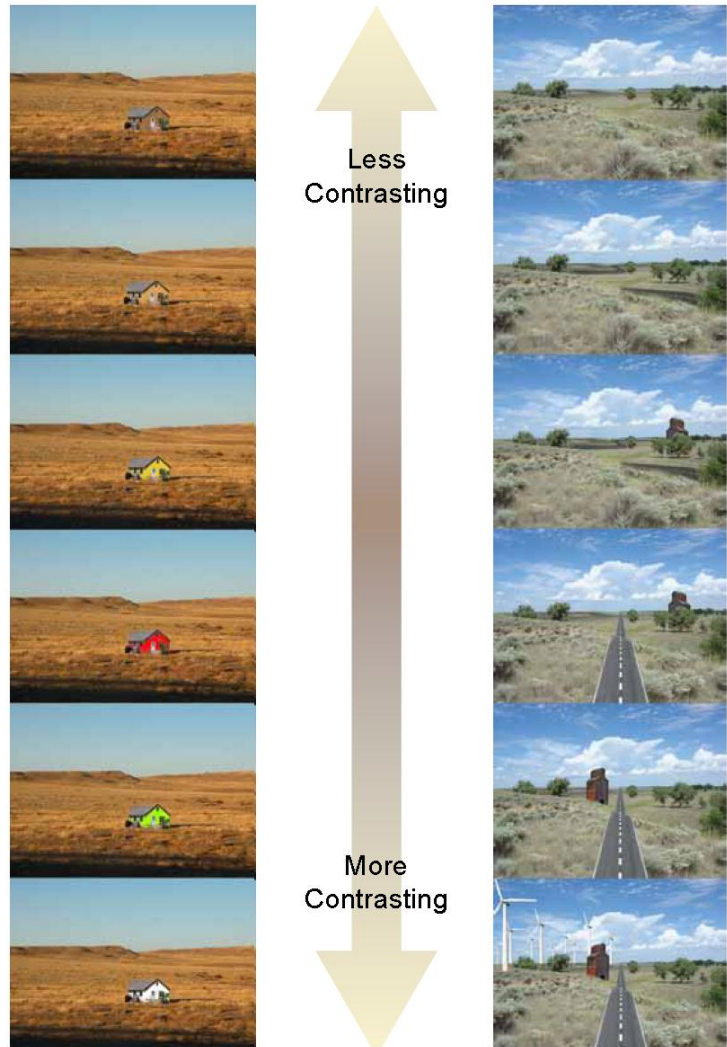
# Can Avoid or Minimize Adverse Effects by Reducing Scale of Undertaking



Height of mountaintop cell tower was shortened by using a “short mast” tower to minimize its visual effect on surrounding area



# Can Minimize Adverse Effects by Altering Color or Shape of Design



**Color & shape influence how man-made features blend or contrast with their surroundings**

*From: A Preliminary Assessment of Scenic and Historic Integrity of the Viewshed at Fort Union National Monument (forthcoming).*

Figure 7. Graphic illustration showing how color (left panel) and shape (right panel) can influence how man-made features blend or contrast with their surroundings. Note the influence of vegetation screening on the grain silo and the difference when the road follows the natural contours (upper right photos) or deviates from the natural contours (lower right photos).

## **Can Minimize Adverse Effects by Altering Shape of Design**

**Another technique is to design vertical tower projects so that they seem to recede into background. For example, transmission lines may blend into their surroundings when the lines do not exceed the height of background vegetation or topography. Also, can place transmission corridors below public viewing angles.**

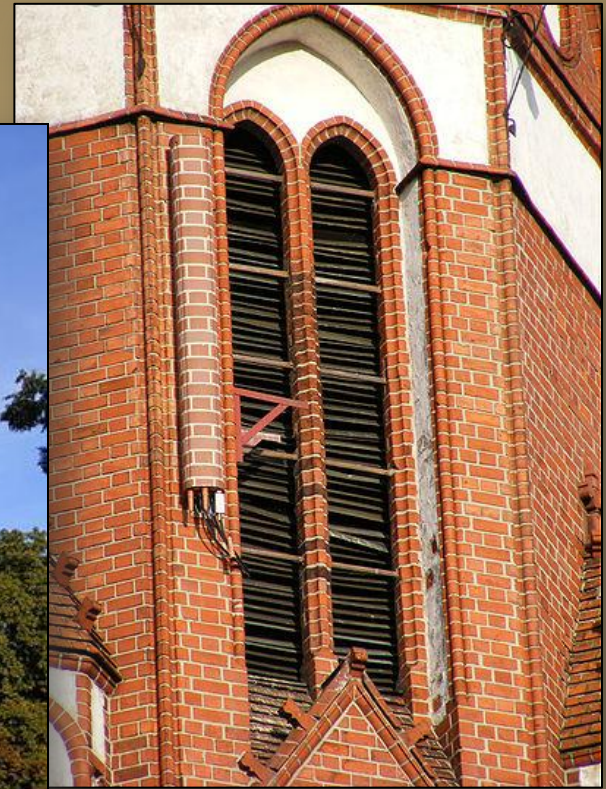


# Mitigation for Communication Projects: Stealth Towers



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# Mitigation for Communication Projects: Colocation



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## For Further Information:

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- Individual National Park Units (see [www.nps.gov](http://www.nps.gov))
- ACHP (see [www.achp.gov](http://www.achp.gov))



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