



# PUBLIC NOTICE

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## SECTION 106 EMERGENCY AUTHORIZATIONS DURING COVID-19

Tackling the communications challenges of the COVID-19 pandemic and keeping Americans connected has been the FCC's top priority in recent months. The Advisory Council on Historic Preservation (ACHP) advised federal agencies to pause Section 106 historic preservation reviews – reviews necessary for new infrastructure deployment – when State Historic Preservation Offices or Tribal Historic Preservation Offices are unable to carry out their Section 106 duties due to COVID-19.<sup>1</sup> The impacts associated with these closures are diminishing as historic preservation review offices resume operations but many urgently needed deployments remain delayed. ACHP's regulations include provisions to allow certain critical infrastructure projects to proceed under expedited Section 106 review during emergencies such as the COVID-19 crisis.<sup>2</sup> In addition, the Commission may issue emergency authorizations for infrastructure projects critical for responding to emergency situations.<sup>3</sup> By this Public Notice, the Wireless Telecommunications Bureau (WTB) announces an electronic process for FCC licensees to apply for expedited Section 106 review or for emergency authorization to resume standard review for qualifying critical infrastructure projects during this crisis.<sup>4</sup>

*Expedited Review Under ACHP Rules on Emergency Situations.* Section 800.12(b) of the ACHP rules provides an expedited “seven-day” Section 106 review mechanism for “essential and immediate” projects that directly respond to a declared disaster or emergency.<sup>5</sup> The pausing of Section 106 reviews does not apply to reviews under Section 800.12(b).<sup>6</sup> A licensee seeking expedited review under Section 800.12(b) must so indicate in its filing and must demonstrate how the project meets the “essential and immediate” standard. Application of Section 800.12(b) requires the FCC to coordinate with the ACHP on each project for which expedited treatment is requested; licensees are encouraged to consult ACHP's guidance regarding the application of Section 800.12(b) for projects that respond to COVID-19 emergencies or disaster declarations.<sup>7</sup>

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<sup>1</sup> See *Section 106 and Coronavirus Impacts* (May 13, 2020), <https://www.achp.gov/digital-library-section-106-landing/section-106-and-coronavirus-impacts>.

<sup>2</sup> See 36 CFR § 800.12(b) (expedited seven-day process for Section 106 reviews).

<sup>3</sup> 47 CFR Part 1, App. C, Section VIII (permitting the Commission to issue an emergency authorization for qualifying projects).

<sup>4</sup> Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 306108.

<sup>5</sup> See 36 CFR § 800.12(b). Section 800.12(b) provides for a seven-day period for affected parties to comment on the project or, if the agency determines that circumstances do not permit seven days for comment, a lesser amount of time as available.

<sup>6</sup> See *Section 106 and Coronavirus Impacts* (May 13, 2020), <https://www.achp.gov/digital-library-section-106-landing/section-106-and-coronavirus-impacts> (noting that pausing of review timelines is inapplicable when the 36 CFR § 800.12(b) review procedures apply).

<sup>7</sup> Amendment to Blanket Extension Regarding Section 106 Review of Undertakings Responding to COVID-19 Emergency and Disaster Declarations (May 22, 2020), <https://www.achp.gov/sites/default/files/2020->

(continued...)

*FCC Emergency Authorization.* Section VIII of the Wireless Facilities Nationwide Programmatic Agreement (NPA) permits the Commission to issue an emergency authorization for infrastructure projects critical for responding to emergency situations.<sup>8</sup> FCC licensees may request an “emergency authorization” under this provision if a project addresses one of the following: (1) network congestion due to COVID-19 effects; (2) needs of unserved/underserved areas due to COVID-19 effects; or (3) support of public safety initiatives (e.g. public safety network deployments) or critical infrastructure initiatives (e.g., transportation and utilities) prioritized by Federal, State, or local governments or by public safety authorities to meet communications needs during the COVID-19 crisis. An emergency authorization will enable approved projects to proceed within the Tower Construction Notification System after the standard Section 106 review period has concluded and in accordance with the procedures established in the *Second Report and Order*, notwithstanding State or Tribal Historic Preservation Office closures.<sup>9</sup>

WTB has established an ECFS non-docketed proceeding for licensees to request, electronically, that: (1) the FCC, in coordination with the ACHP, permit expedited review under 36 CFR § 800.12(b) of the ACHP’s rules; or (2) the FCC issue an emergency authorization under Section VIII of the Wireless Facilities NPA to permit standard review under Section 106 to continue. Filing instructions and requirements are attached to this Public Notice.

For questions regarding this Public Notice, please contact Leon Jackler, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at [Leon.Jackler@fcc.gov](mailto:Leon.Jackler@fcc.gov).

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[05/Blanket%20Extension%205-22-10.pdf](#). This expedited review is only available until July 31, 2020 or to the date specified in any subsequent extension granted by the ACHP.

<sup>8</sup> 47 CFR Part 1, App. C, Section VIII. Emergency authorizations under Section VIII of the Wireless Facilities NPA are not available for projects proposed on tribal lands unless the tribal government elects to follow the NPA in accordance with Section I.D. of the NPA. 47 CFR Part 1, App. C, Section I.D.

<sup>9</sup> *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Second Report and Order, 33 FCC Rcd 3102, 3151, para. 111 (2018) (*Second Report and Order*), remanded in part sub nom., *United Keetoowah Band of Cherokee Indians v. FCC*, No. 18-1129, 2019 WL 3756373 (D.C. Cir Aug. 9, 2019).

**Attachment**  
**Wireless Telecommunications Bureau ECFS Non-docketed Filing Solution**

- **Licenses must use the ECFS non-docketed filing portal for submitting a request for expedited review or emergency authorization to proceed with Section 106 review during the COVID-19 crisis notwithstanding SHPO or THPO office closures. The request must include the following:**
  - **The name and contact information for the licensee;**
  - **The Tower Construction Notification System filing number and date of filing;**
  - **A description and location (address including county and state) of the infrastructure project;**
  - **For an emergency authorization, a detailed description of how the project qualifies for one of the three categories of critical infrastructure projects eligible for emergency authorization; for expedited review under 36 CFR § 800.12, a detailed description of how the project qualifies under that standard and ACHP guidance.**
  - **For an emergency authorization, a list the State Historic Preservation Office and all Tribal Historic Preservation Offices closures impacting the project.**
  
- **Do not use the ECFS non-docketed filing portal to submit any confidential documents, as all documents uploaded via ECFS are available to the public. If an application requires the submission of confidential information, please coordinate with FCC staff regarding its submission.**

**Filing instructions:**

1. Access the ECFS filing portal at <https://www.fcc.gov/ecfs/filings>.
2. Click on the blue header labeled “Non-Docketed Filing.”
3. From the field labeled “FCC Inbox,” use the drop-down menu to select the appropriate inbox for the intended filing. The following WTB inbox has been established for applicable filings:  
INBOX – 106 Section 106 Emergency Authorizations
4. Complete the necessary fields regarding filer information
5. In the “Upload Documents” field, click to upload the appropriate document or drag and drop the document in the perforated box.
  - a. Filers must include an electronic copy of their completed submission signed pursuant to section 1.52 of the Commission’s rules, as well as any associated attachments.
  - b. With their submission, filers must include a table in the format indicated at the end of this document with all fields completed. If filing for multiple projects, a single table may be used but the information for each project must be completed in separate rows.
  - c. The ECFS system permits uploading of a maximum of five files per filing;
  - d. Filing types accepted are PDF, text, ppt, pptx, docx, xlsx, doc, xls, rtf, and dwg.
6. Select “continue to review screen” at bottom of screen
  - a. Review summary of information completed for accuracy.

- b. If any corrections are required, filers can navigate back to the previous screen with the filer information using their browser’s back button.
- 7. Once filers have confirmed that the information they entered is correct, click the “submit” button on the bottom of the screen.
  - a. Filer will receive a confirmation number upon submission.
  - b. Please save the number for tracking purposes.
- 8. Please direct any questions about filed applications to WTB Staff: Competition and Infrastructure Policy Division: Leon Jackler [Leon.Jackler@fcc.gov](mailto:Leon.Jackler@fcc.gov).
- 9. Technical Assistance: For technical assistance with ECFS, please contact the ECFS Help Desk at 202-418-0193 or [ECFSHelp@fcc.gov](mailto:ECFSHelp@fcc.gov).

	<b>Licensee Name</b>	<b>Filer Name/ email</b>	<b>Initial Date Filed</b>	<b>TCNS #</b>	<b>Date of TCNS filing</b>	<b>Form 620/621 filing #</b>	<b>Date of 620/621</b>	<b>SHPO/ THPO Closure Impacting Project</b>
1.								