



FCC's NEPA Process

- **Overview of NEPA**
- **Overview of FCC's NEPA rules and procedures**
- **Nuts and bolts of how to comply with our rules**



NEPA (42 U.S.C. 4321-4335)

- Requires agencies to consider and disclose the environmental effects of their actions to improve decision-making and encourage transparency, public participation, and accountability.
- Requires agencies to integrate environmental considerations into their decisions.



NEPA and CEQ regulations

- Define effects broadly to include ecological, aesthetic, historic, social, and cumulative and indirect.
- Define actions broadly to include programs, rules, funding, licensing, permitting
- NEPA sets out a process—no mandated outcome



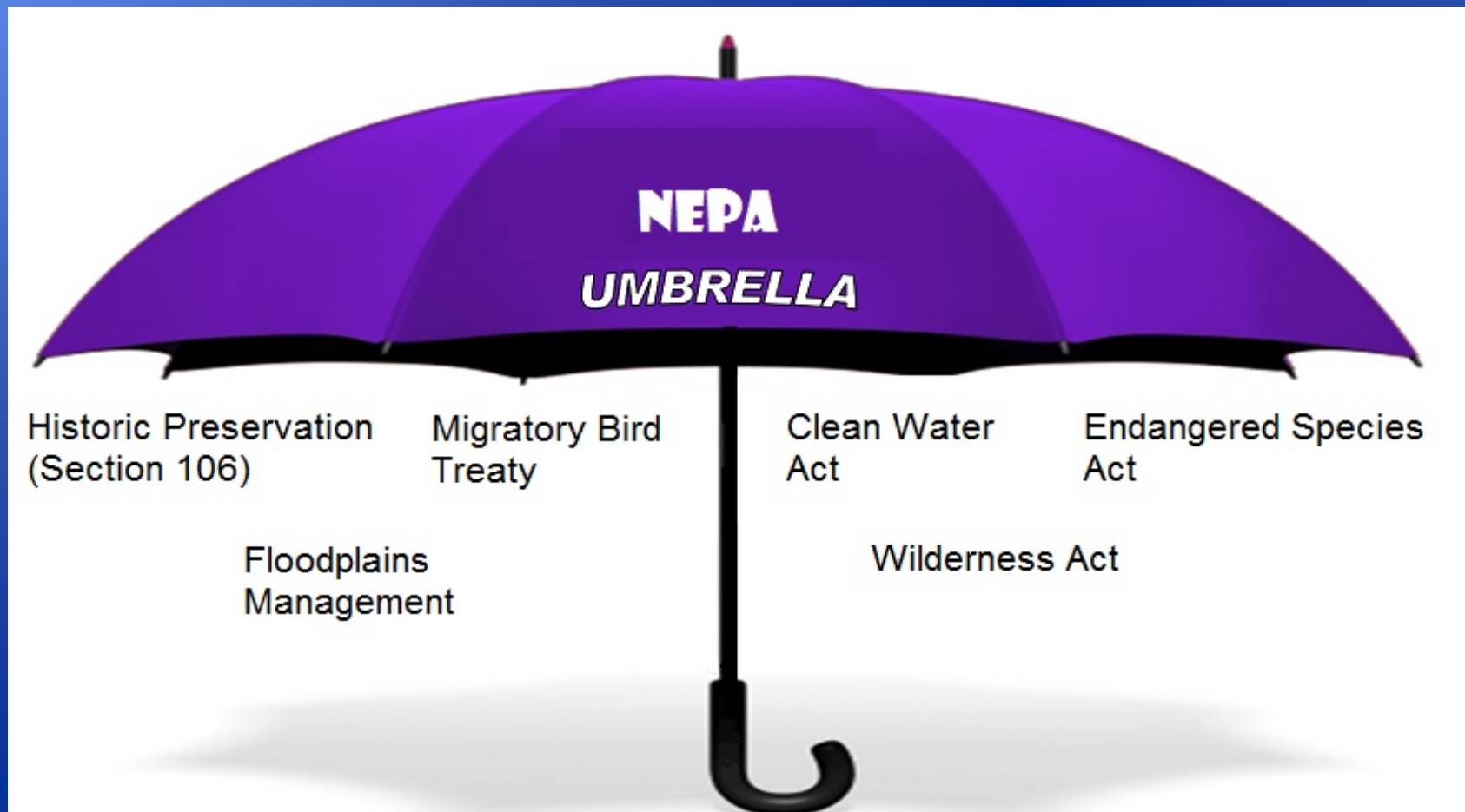
NEPA

Three levels of review:

- Environmental Impact Statements (EIS's)
- Environmental Assessments (EA)
 - Finding of No Significant Impact (FONSI)
- Categorical exclusions (CE, CX, CatEx)
 - “Extraordinary circumstances”



ENVIRONMENTAL REVIEWS





Environmental Compliance Regulations

The FCC is responsible for ensuring that its actions comply with environmental laws and regulations, including NEPA.

NEPA compliance rests with FCC.



FCC's NEPA PROCEDURES

Agency actions that trigger NEPA:

- Licensing Spectrum (for associated facility construction)
- Registering Towers

To meet NEPA obligations, FCC imposes enforceable duties on licensees and applicants

FCC has delegated initial assessment of whether proposed facility is CatExed and EA preparation to applicants and licensees

FCC has CatExed all agency actions associated with construction of facilities but for those in certain categories (our extraordinary circumstances)



FCC Extraordinary Circumstances-- Triggers for EA

- High intensity white lights in residential neighborhoods
- Radiofrequency exposure in excess of FCC guidelines
- Located in designated wilderness area or wildlife preserve
- Presence of sensitive species or their habitat
- Historic districts and properties, Indian religious sites
- Floodplain
- Significant change in surface features (e.g., wetland fill, water diversion, deforestation)
- Structure over 450 feet tall (migratory birds)



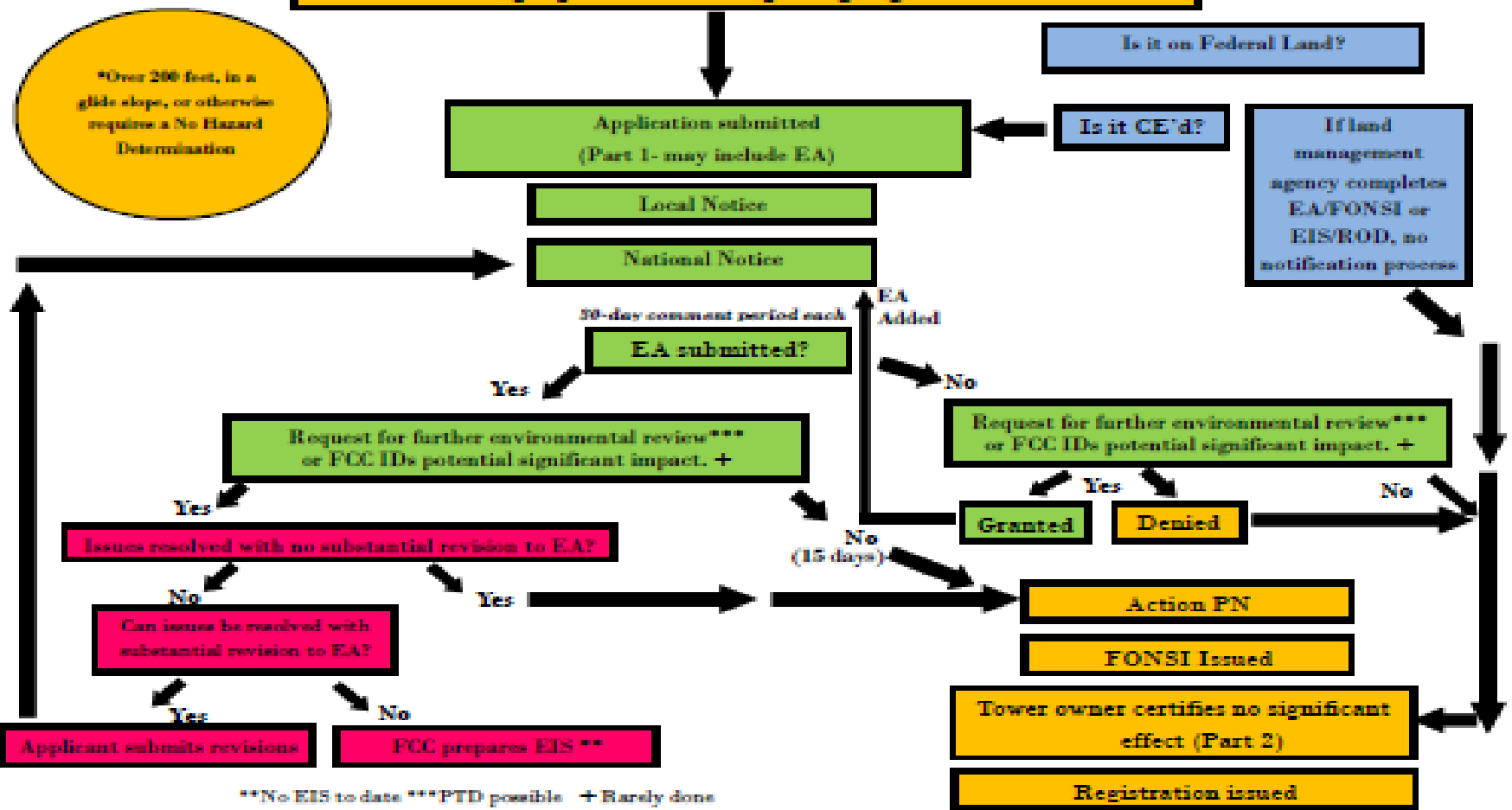
Who needs to Comply?

- Registrants
 - Tower owners needing to register for aircraft navigation safety
 - non-licensee tower owners wanting towers available for collocators
- Licensees and spectrum lessees
 - Commercial licensees, utilities, broadcasters, RR, mining cos...
 - site specific (e.g. public safety) and geographic



04/10/2015

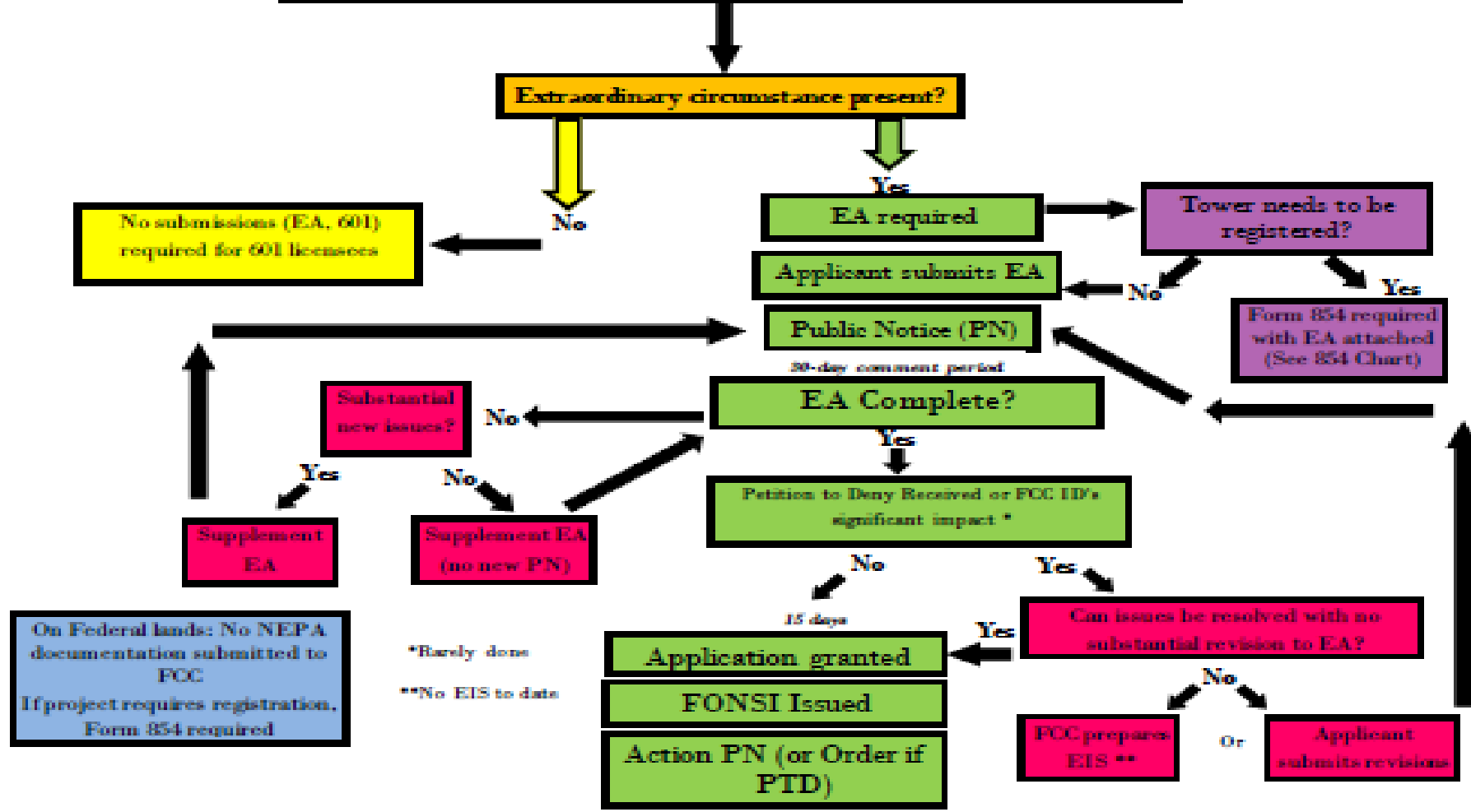
Form 854 – Antenna Structure Registration For proposed towers requiring registration*





04/30/2015

Form 601 - Radio Service Authorization (Tower Construction) NEPA Process





How to Comply: FCC Form 854/Form 601

- Prior to an application being granted, an applicant must certify that the proposed antenna structure will not have a significant effect on the environment.
- Certifying means all statements are “true, complete, correct, and made in good faith.”
- To answer questions and to certify, complete the NEPA Checklist. Must submit EA if might have significant effect. Retain the Checklist for your records.



NEPA Checklist

- Will the facility be located in an officially designated wilderness area?
- Will it be located in an officially designated wildlife preserve?
- Will the facility affect listed or jeopardize proposed threatened or endangered species (TES) or designated critical habitat?
- Will the facility affect districts, sites, buildings, structures or objects significant in American history, architecture, archaeology, engineering or culture that are listed, or are eligible for listing in the National Register of Historic Places”?
- Will the facility affect Indian religious sites?
- Will it be located in a floodplain?
- Will construction involve “significant change in surface features (e.g., wetland fill, deforestation or water diversion)”?
- Will the facility be over 450 (so might affect migratory birds)?
- High intensity white lights in residentially zoned neighborhood?
- Radio Frequency exposure?

All other facility deployments, including deployment of new wireless towers, are categorically excluded.



Form 601

Application for WTB Radio Service Authorization

Would a Commission grant of Authorization for this location be an action which may have a significant environmental effect? (22, 48, depending on Schedule) See Section 1.1307 of 47 CFR.

- If 'Yes', submit an EA as required by 47 CFR, Sections 1.1308 and 1.1311.

This item is required for compliance with NEPA. See also Part 1, Subpart I of the FCC rules (47 CFR 1.1301 - 1.1319).



Form 854

Application for Antenna Structure Registration

Item 48 Does the applicant certify that authorizations at this location would not have a significant environmental effect pursuant to Section 1.1307?

If “yes” submit an environmental assessment as required by 47 CFR, Sections 1.1308 and 1.1311.

Look at Section 1.1307 checklist to answer.

Comply with environmental notice requirements.



Options Once an EA is Triggered



OR



Begin the EA Process; FCC approval can take 45-90 Days.

Consult with Agencies on changes to eliminate or mitigate triggering effects.



Primary FCC Triggers for EA

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



EA required under two circumstances

- Action meets one or more of specific criteria stated in rules (checklist)
- FCC orders EA in response to petition or on own motion
- EA requirement applies, if triggered, even if Section 106 is excluded



Contents of EA

Requirements outlined in 1.1311

- Must address all factors in 47 CFR 1.1307(a) and (b) and include info on site selection and alternatives sites, impact of O and M in sensitive areas...
- Specific expectations for each factor spelled out in EA checklist



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



Contents of EA – Historic Properties/Indian Religious Sites

- TCNS file number
- List of Tribes contacted
- If no adverse effect, SHPO/Tribal Nation concurrences or explanation of why concurrences not needed
- If adverse effect, MOA or FCC decision on avoidance/mitigation
- All relevant correspondence



Contents of EA – Floodplain/Wetland

- 100-year floodplain
 - FEMA map
 - If in floodplain, showing construction will be at least 1 foot above floodplain
- Wetlands
 - US Army Corps map
 - If not in wetland, indicate
 - If wetland fill required, US Army Corps permit or other authorization



Contents of EA – Other Factors

- Migratory Birds
- Wilderness area/wildlife preserve (generally on federal land)
 - Relevant databases, maps, etc.
 - If in protected area, relevant approvals or permits
- High-intensity white lights
 - Type of lights
 - Location (Will not use high-intensity white lights in residentially zoned area)
- Radiofrequency exposure
 - Certification of compliance with Commission guidelines



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



Environmental Review

- If after review, no significant impact, applicant certifies and if no request for further environmental review (854) or petitions to deny (601) or agency ID'd issues, application granted.
- If an EA was prepared, and no significant issues, the Commission can issue a FONSI.
- If an applicant cannot certify no significant impact, FCC can prepare an EIS prior to approval or the applicant can withdraw the application.



Other Agencies

- No EA needed if another agency has done NEPA
- Federal land management agency EA's and EIS's are sufficient, but not CatEx's



Reminders

- The height/design of a tower is not relevant in determining that a proposed tower is subject to the NEPA process – some level of review is required, even for a CatEx
- Antenna Structure Registration requires environmental notice, even without an EA
- The grant of a license is not permission to construct; even with a license , building without following environmental regs can be violation of our rules
- A licensee must consider environmental effects and if necessary complete an EA before constructing facilities not otherwise requiring pre-construction authorization
- Refer to rules (1.1307) throughout process, not form instructions and checklists



NEPA OVERVIEW

- Questions?



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