



National Trust *for*
Historic Preservation®

September 18, 2025

Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Filed via www.fcc.gov/ecfs/filings

**Re: Modernizing the Commission's National Environmental Policy Act Rules
FCC 25-217; 90 Fed. Reg. 40,295 (Aug. 19, 2025)**

Dear Ms. Flynn,

These comments are submitted on behalf of the National Trust for Historic Preservation in the United States, in response to the Notice of Proposed Rulemaking by the Federal Communications Commission (FCC) regarding the agency's regulations for compliance with the National Environmental Policy Act (NEPA).

Founded in 1949, the National Trust is a privately funded nonprofit organization chartered by Congress to protect America's historic places, and to "facilitate public participation" in historic preservation. 54 U.S.C. § 312102(a). The National Trust has also been designated by Congress as a member of the Advisory Council on Historic Preservation, which is responsible for working with federal agencies to implement compliance with Section 106 of the National Historic Preservation Act (NHPA). *Id.* §§ 304101(a)(9), 304108(a). Through our stewardship of historic sites, partnerships with preservationists across the country, and our strong role in federal policy, the National Trust has long advocated for thoughtful and transparent planning processes that preserve the nation's irreplaceable cultural and historic resources.

Preserving our nation's historic and cultural places is a cornerstone of good policy – good for our economy, good for our environment, and good for our communities. Federal efforts to protect these cherished resources not only breathe new life into cities, towns, and neighborhoods nationwide, but they also ignite a deep sense of national pride. The Administration's commitment is crucial to ensuring that federal actions are based on thoughtful consideration of their impacts on these vital assets, and will ensure that this important work of safeguarding our heritage continues for generations to come.

NEPA plays a vital role in ensuring that federal agencies assess and consider the environmental impacts of their actions, including effects on historic properties. NEPA's statutory provisions include a requirement that federal agencies "preserve important historic, cultural, and natural aspects of our national heritage," 42 U.S.C. § 4331(b)(4). The procedural protections enshrined in NEPA—particularly through its public engagement requirements and analysis of alternatives—have been instrumental in preserving places of

historical and cultural significance, many of which would otherwise have been lost or irrevocably damaged.

The National Trust recognizes the economic and social benefits from regulations that clarify the standards and procedures governing NEPA reviews. By reducing uncertainty and inefficiency, strong regulations ideally encourage greater investment, foster increased transparency, and promote early coordination to support timely approvals. The National Trust supports these objectives, but it will be important to ensure that the regulations require adequate consideration of impacts to historic and cultural resources.

The National Trust's primary interest in NEPA is ensuring that federal agencies adhere to statutory requirements and take appropriate measures to consider our national heritage. In particular, the requirements of 42 U.S.C. § 4332(2)(C), which includes a thorough analysis of environmental impacts and alternatives, have been instrumental in preserving many of our nation's most important historic places. The National Trust frequently participates in NEPA public comment opportunities to help inform those considerations, and we are grateful for the many positive, consensus-driven outcomes that we have achieved in collaboration with federal agencies through those engagements.

We also note that NEPA and Section 106 of the NHPA are intended to function in a coordinated and efficient manner, and their respective review processes should be integrated. When coordinated early in project planning, these reviews support timely and informed federal decision-making while ensuring meaningful consideration of environmental and cultural resources. By coordinating these reviews from the outset, agencies avoid redundant efforts, reduce delays, and meet compliance obligations more efficiently, while upholding the intent of both statutes to protect valuable environmental and historic resources. The National Trust urges federal agencies to develop NEPA regulations in a manner that ensures continued coordination with the NHPA, recognizing this integration as essential to effective project planning and resource protection.

To facilitate timely and unified federal reviews, NEPA requires that each notice of intent to prepare an environmental impact statement include a request for public comment on proposed agency action. 42 U.S.C. § 4336a(c). This engagement allows communities to provide early input regarding the proposed actions and their potential impacts on historic and cultural and environmental resources. Citizens, organizations, and stakeholders can then identify local concerns and suggest alternatives that federal agencies need to consider. This early invitation for public comment helps to minimize delays, legal challenges, and negative impacts. Public participation at the local level aligns with democratic principles and frequently leads to more successful projects that better reflect local needs and values.

We have concerns that the Commission's proposed revisions to its NEPA regulations may diminish the scope and effectiveness of environmental reviews in ways that could harm historic and cultural resources. Limiting the types of actions that require environmental assessments or environmental impact statements may overlook significant threats to historic sites, particularly those affected by indirect or cumulative impacts.

Specific Areas of Concern:

- **Ensuring Adequate Analysis of Cumulative Impacts to Historic and Cultural Resources.** Although the *Seven County Infrastructure*¹ case curtails consideration of “reasonably foreseeable” impacts under NEPA, the Section 106 regulations explicitly require consideration of “reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.” 36 C.F.R. § 800.5(a)(1). When the Section 106 review process under the NHPA is integrated with the NEPA process, it is crucial to continue assessing the reasonably foreseeable impacts on historic and cultural resources as required by Section 106. Dismissing such impact assessment from the NEPA process risks failing to comply with Section 106 and would not provide adequate oversight or mitigation.
- **“Undertakings” and “Major Federal Actions” Are Not “Coterminous.”** We strongly disagree with the assertion by the CTIA that Section 106 and NEPA are “coterminous,” with the same scope of applicability, *see* 90 Fed. Reg. at 40,301, 40,303, and we urge the Commission not to adopt this position, as it would create a risk of legal challenge.
- **Diminished Community-Driven Engagement.** Public engagement is foundational to NEPA and critical to identifying historically significant sites, especially those of Tribal Nations, underserved communities, and others whose voices have historically been minimized or excluded from the federal decision-making process.
- **Compressed Timelines Without Safeguards:** While efficiency is important, imposing arbitrary limits on review periods may hinder agencies' ability to fully consult with State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), and other stakeholders, as required under Section 106 of the NHPA. 36 C.F.R. §§ 800.3, 800.16(f).
- **Inadequate Tribal Consultation.** We support the comments submitted on September 5 by the National Association of Tribal Historic Preservation Officers (NATHPO), raising concerns about the Commission’s inadequate tribal consultation during the process of developing the proposed regulations.

Recommendations

To ensure that the NEPA process continues to safeguard historic resources as Congress intended, the National Trust urges the Commission to:

- Retain meaningful analysis of cumulative and indirect impacts on historic resources, in order to ensure compliance with Section 106 of the NHPA;

¹ *Seven County Infrastructure Coalition v. Eagle County*, No. 23-975, 605 U.S. ____ (May 29, 2025).

- Preserve robust opportunities for early and effective public participation and tribal consultation;
- Ensure strong coordination between NEPA and Section 106 of the NHPA; and
- Provide adequate time and professional staff to conduct meaningful reviews of impacts on environmental and historic resources.

The National Trust firmly believes that historic preservation and environmental stewardship are mutually reinforcing objectives. Federal efforts to protect our nation's historic and cultural resources play a vital role in revitalizing communities, supporting local economies, and strengthening Americans' connection to our shared heritage. Effectively implementing NEPA is essential to safeguarding the places that embody the full breadth of the American story—from national parks, to Tribal sacred sites, to urban landmarks and historic neighborhoods, to battlefields and rural landscapes.

We appreciate the opportunity to provide comments, and we would be happy to serve as a resource during the process of continuing to develop implementing regulations. We respectfully urge the Commission to ensure that any revisions to NEPA implementation remain faithful to the statute's original purpose: to promote informed decision-making, safeguard irreplaceable environmental and cultural resources, and facilitate meaningful public engagement. Taking into account historic and cultural resources is not a hindrance to progress, but rather a pathway to more resilient and community-driven development. With thoughtful updates and continued consultation, the NEPA process can continue to protect historic places and environmental resources while advancing the nation's infrastructure and sustainability goals.

Sincerely,



Elizabeth S. Merritt
Deputy General Counsel

cc: Bambi Kraus, Chief, Office of Native Affairs & Policy, FCC
Ellen Saint Onge, Federal Preservation Officer, FCC
Christine Heacock, Deputy Federal Preservation Officer, FCC
Jennifer Flynn, Competition & Infrastructure Policy Division,
Wireless Telecommunications Bureau, FCC
Travis Voyles, Vice Chairman, ACHP
Reid Nelson, Executive Director, ACHP
Erik Hein, NCSHPO
Valerie Grussing, NATHPO