



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

March 1, 2024

Mr. Douglas Kinkoph
Associate Administrator
Office of Internet Connectivity and Growth, NTIA
1401 Constitution Avenue NW
Washington, D.C. 20230

Dear Mr. Kinkoph:

Thank you for consulting with the Council on Environmental Quality (CEQ) on the National Telecommunications and Information Administration (NTIA) proposal to (1) follow the First Responder Network Authority's (FirstNet Authority) National Environmental Policy Act (NEPA) procedures on an interim basis as modified to account for NTIA's internal organization, and (2) establish new categorical exclusions (CEs) in compliance with NEPA, 42 U.S.C. 4321 et seq., the CEQ NEPA implementing regulations, 40 CFR parts 1500–1508, and other related authorities. NTIA's proposed CEs to apply to administrative, real property and facility, and operational actions that individually or cumulatively do not have a significant effect on the human environment. NTIA's proposal is intended to further NTIA's compliance with the Infrastructure Investment and Jobs Act and increase NTIA's efficiency in environmental analysis and decision making while fully meeting NEPA's requirements.

NTIA is aware that CEQ is undertaking a multiphase rulemaking process to review and revise the NEPA implementing regulations. Following CEQ's revisions to the NEPA regulations, NTIA has indicated its intent to propose comprehensive NEPA procedures. In the interim, NTIA proposed to rely on the FirstNet Authority's procedures with two modifications. First, NTIA proposed to implement the existing FirstNet Authority procedures as written with the exception of its Roles and Responsibilities section, which NTIA would address in NTIA-specific guidance. Second, NTIA proposed to establish new CEs specific to NTIA's actions.

Consistent with 40 CFR 1507.3(b)(1), NTIA consulted with CEQ while developing its proposal to follow FirstNet Authority's NEPA procedures and establish new CEs for conformity with NEPA and the CEQ regulations implementing NEPA. This collaborative effort involved multiple drafts and revisions before final drafts of the materials, including the proposed CEs and associated administrative record, were submitted to CEQ for review. Following CEQ's review, NTIA sought comments from the public on its proposal via a 30-day public comment period announced in the *Federal Register* on March 30, 2023 (88 Fed. Reg. 19,089). NTIA received eight substantive comments from the broadband and telecommunications community, including one state regional cooperative and seven industry associations.

NTIA considered the public comments and has responded to them in its final *Federal Register* notice. Commenters generally supported NTIA's interim use of FirstNet Authority's NEPA implementing procedures. Commenters encouraged NTIA to maintain or incorporate CEs established by the Department of Commerce in 2009. In the final notice, NTIA clarifies departmental-wide CEs remain applicable to NTIA programs. In addition, NTIA undertook a comparative review of the existing Department programs to identify applicable department-wide CEs. In light of this review, NTIA is not including two CEs from its proposal because the actions they would cover already are encompassed by existing department-wide CEs. In response to comments, NTIA also made minor revisions to several of the proposed CEs in response to comments. NTIA also updated its administrative record to explain the changes. NTIA will consider other procedural comments in developing its final implementing procedures once CEQ completes its rulemaking process.

CEQ has reviewed NTIA's proposed and final notices to adopt the FirstNet Authority's NEPA implementing procedures and NTIA's draft and final Administrative Record for its new CEs to ensure conformity with NEPA and the CEQ regulations. Based on this review, CEQ concludes that NTIA's procedures, including its new CEs as described in the attached *Federal Register* notice, are in conformity with NEPA and the CEQ regulations implementing NEPA. NTIA's new procedures will be effective upon publication of the final notice in the *Federal Register*.

CEQ appreciates NTIA's collaboration and responsiveness to CEQ's comments and recommendations.

Sincerely,



Ana Unruh Cohen, PhD
Senior Director for NEPA, Clean Energy & Infrastructure

cc: Stephanie Weiner, Chief Counsel
Jill Springer, Chief Environmental Review and Permitting Officer
Amanda Periera, Environmental Program Officer

Enclosure