
Guidance on NTIA National Environmental Policy Act Compliance

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Purpose and Scope

The National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. § 4321 et seq., as implemented by the Council on Environmental Quality (CEQ) regulations, 40 C.F.R. Parts 1500-1508, requires federal agencies to consider the environmental effects of proposed actions in their decision-making, analyze the potential environmental effects of proposed actions and their alternatives, avoid or minimize adverse effects of proposed actions, and restore and enhance environmental quality to the extent practicable. The CEQ regulations also require agencies to adopt NEPA procedures specific to their mission.

The purpose of this document is to provide guidance on the National Telecommunications and Information Administration's (NTIA) interim procedures for complying with NEPA, the CEQ regulations, and other related authorities (see Appendix A). The provisions of this policy apply to major federal actions, as defined in NEPA and the CEQ regulations, and as undertaken by NTIA.

Definitions

These definitions incorporate by reference all terminology and definitions contained in NEPA (42 U.S.C. § 4336e) and the CEQ regulations (40 C.F.R. § 1508.1). For ease of reference, the following is a glossary of definitions from NEPA and the CEQ regulations and NTIA terminology used in this guidance.

- (a) **Applicant.** A non-federal entity, person, state, territory, or Tribe, including a project sponsor, that seeks an action by NTIA such as granting a permit, license or financial assistance.
- (b) **Categorical Exclusion (CE).** A category of actions that an agency has determined, in its agency NEPA procedures, normally do not have a significant effect on the human environment. When an agency applies a CE to a proposed action, that decision is referred to as a CE determination.
- (c) **Council on Environmental Quality (CEQ).** The organization within the Executive Office of the President charged with monitoring progress toward achieving the national environmental goals set forth in NEPA. The CEQ promulgates regulations governing the NEPA process for all federal agencies.
- (d) **Determination of NEPA Adequacy.** A written document (e.g., Memorandum to File, approved checklist) prepared, as appropriate, by the NEPA Coordinator or delegated entity detailing the rationale for adopting another agency's environmental analysis or documentation when that analysis or documentation is used to address NTIA's NEPA requirements.
- (e) **Environmental Assessment (EA).** A concise public document prepared by an agency that briefly provides sufficient evidence and analysis to support its determination of whether to prepare an EIS or a FONSI. The EA includes the purpose and need for the proposed action, a reasonable range of alternatives to the proposed action, the environmental impacts of the proposed action and alternatives, and a listing of agencies



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and persons consulted.

- (f) **Environmental Document.** A CE determination (if documented by an agency), EA, FONSI, notice of intent to prepare an EIS, EIS, Determination of NEPA Adequacy, or other memorandum documenting compliance with NEPA.
- (g) **Environmental Impact Statement (EIS).** A detailed written statement prepared by an agency if a proposed action significantly affecting the quality of the human environment. The decision to prepare an EIS is based on the agency's determination that the potential impact of a proposed action is significant, or the results of an EA indicate significant impacts. An EIS includes the purpose and need for the action, a reasonable range of alternatives to the proposed action, the analysis of the affected environment and the environmental consequences of the proposed action, a list of preparers, a list of agencies involved, responses to any public comments received, a list of organizations and persons to whom the statement is sent, an index, and appendices as needed. An EIS is prepared in two stages: a draft and a final. Either stage of an EIS may be supplemented.
- (h) **Environmental Review** or NEPA process. All measures and steps necessary for NEPA compliance. The NEPA process is led by the agency, in coordination with, as applicable, a joint lead agency, cooperating agencies, or an applicant, and includes: 1) identifying and scoping issues related to the proposed action; 2) determining the necessary steps for NEPA compliance and preparing environmental documents; and 3) making decisions that are based on understanding the environmental consequences of the proposed action.
- (i) **Finding of No Significant Impact (FONSI).** A document prepared by an agency briefly presenting the reasons why an action, not otherwise categorically excluded will not have a significant effect on the human environment and for which an EIS therefore will not be prepared. The FONSI shall include the EA or a summary of it and shall note any other environmental documents related to it.
- (j) **Mitigation.** Measures taken to allow the proposed action to avoid environmental impacts altogether; minimize impacts by limiting the degree or magnitude of the action; rectify the impact by repairing, rehabilitating, or restoring the affected environment; reduce or eliminate the impact over time by preservation; and/or compensate for the impact.
- (k) **NEPA Coordinator.** Individual responsible for coordinating and overseeing NTIA's compliance with NEPA.
- (l) **NEPA Document.** An EA, FONSI, draft, supplemental draft, or final EIS, Record of Decision (ROD), Determination of NEPA Adequacy, or other memorandum documenting compliance with NEPA.
- (m) **Record of Decision (ROD).** A public document signed by the agency decision maker following the completion of an EIS. The ROD states the decision, alternatives considered (including the no action alternative and the environmentally preferable alternative(s)), factors considered in the agency decision, mitigation measures that will be implemented, and whether all practicable means to avoid or minimize environmental



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harm have been adopted.

- (n) **Supplemental Environmental Documents.** A document prepared to amend an original environmental document when there is a significant change in the action proposed beyond the scope of the original environmental review or when circumstances or information arise that could affect the proposed action and its environmental impacts.

Policies

NTIA activities shall be planned, developed, and implemented to achieve the purposes and to follow the procedures outlined by NEPA, the CEQ regulations, and other related authorities to help ensure responsible stewardship of the environment for present and future generations. Accordingly, NTIA shall adhere to the following actions to ensure compliance with NEPA:

(a) NTIA shall:

1. Comply with the CEQ regulations.
2. Report and coordinate its policies and procedures with the Department of Commerce (DOC) Office of the General Counsel, as appropriate.
3. Ensure activities and planning regarding major federal actions that NTIA undertakes consider the environmental consequences of the proposed actions in conjunction with mission requirements and objectives.
4. Consider and give weight to environmental factors in making decisions to achieve a proper balance between the development and utilization of natural, cultural, and human resources and the protection and conservation of environmental quality.
5. Consult, coordinate, cooperate, and partner with other federal agencies and state, territorial, local, and Tribal governments, as appropriate, in the development and implementation of NTIA's plans and programs affecting environmental quality and, in turn, consider those activities that succeed in best addressing federal, state, territorial, local, and Tribal concerns.
6. Identify and invite, as appropriate, federal, state, territorial, local, and Tribal governments to participate as joint lead or cooperating agencies during the NEPA scoping process.
7. Participate as a lead, joint lead, or cooperating agency, as appropriate, with other federal agencies where NTIA is involved in the same action as other agencies, or is involved in an action related to another agency's action because of the functional interdependence or geographical proximity of the agency; and
8. As requested, and where resources allow, review, and provide comments on draft NEPA documents submitted by other federal agencies where the action relates to NTIA's mission or operations.

(b) NTIA shall ensure appropriate action is taken to comply with NEPA, in accordance with this policy, when actions are planned by applicants by ensuring that:



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9. NTIA environmental policies are accessible on the NTIA website and designated personnel are available to advise potential applicants of environmental studies or other information.
 10. NTIA works with applicants to initiate consultation early with appropriate state, territorial, local, and Tribal governments and with interested private persons and organizations when its own involvement is reasonably foreseeable; and
 11. NTIA works with applicants to begin the NEPA process at the earliest possible time.
- (c) While it is the policy of NTIA to evaluate its actions in accordance with the requirements of NEPA, the CEQ regulations, and other related authorities, certain actions may result from statutory requirements or an applicant's actions, which are beyond NTIA's control or outside its jurisdiction. In such cases, the NTIA NEPA Delegated Authority, based on recommendations from NTIA's Office of Chief Counsel and the NEPA Coordinator shall make a determination regarding NEPA applicability.

NEPA Program Goals

NTIA shall follow a systematic, interdisciplinary approach to planning to minimize the use of and impact to environmental resources. The NTIA NEPA program is designed to ensure that:

- (a) Proposed actions to be undertaken by NTIA are identified early in the planning process and brought to the attention of the NTIA NEPA Delegated Authorities and/or NEPA Coordinator(s), as applicable.
- (b) Proposed actions are evaluated to determine the appropriate applicable NEPA review (i.e., categorical exclusion [CE], environmental assessment [EA], or environmental impact statement [EIS]) when tiering from or adopting existing environmental documentation or analyzing interim actions.
- (c) An interdisciplinary approach is taken to proactively consider environmental impacts and identify and consider the range of reasonable alternatives at the earliest planning stages of an action and prior to rendering any decision.
- (d) The planning process integrates environmental review and consultation requirements.
- (e) The impacts of proposed activities, programs, and projects on the quality of the human environment are considered before making an irretrievable and irreversible commitment of resources.
- (f) The public is engaged and involved in the planning process and evaluation of environmental impacts, as appropriate.

Roles and Responsibilities

NTIA's roles and responsibilities relating to the implementation of and compliance with NEPA are as follows:



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- (a) **Assistant Secretary for Communications and Information.** The Assistant Secretary for Communications and Information has the ultimate responsibility to ensure NTIA's compliance with NEPA. The Assistant Secretary has discretion to delegate NEPA responsibility for NTIA programs.
- (b) **NTIA NEPA Delegated Authorities.** The Assistant Secretary has delegated responsibility to oversee the NTIA NEPA program to the Associate Administrator for Internet Connectivity and Growth, Office of Internet Connectivity and Growth, for applicable federal assistance projects; the Associate Administrator for Telecommunication Sciences and Director, Institute for Telecommunication Sciences (ITS) for real property managed by ITS; the Director of Public Wireless Supply Chain Innovation Fund for applicable federal assistance projects, and the Chief Financial Officer and Director of Administration, NTIA, for all other actions (hereinafter "NTIA NEPA Delegated Authorities").

The NTIA NEPA Delegated Authorities are responsible for administering the NTIA NEPA program for their respective actions. These duties include:

- a. Assisting their staff in a cooperative manner in applying NEPA;
 - b. Developing, maintaining, and revising agency wide NEPA policy and procedures;
 - c. Collecting and sharing NEPA best practices;
 - d. Providing NEPA tools and training offices, as necessary; and
 - e. Serving as the interface on NEPA issues with CEQ, DOC, and other federal agencies.
- (c) **NTIA NEPA Coordinator.** The NEPA Coordinator is the head of the Environmental and Historic Preservation (EHP) team, overseeing the Environmental Program Officers and reporting to the Director of Grants and Compliance. The NEPA Coordinator assists Delegated Authorities in ensuring that actions comply with NTIA's NEPA procedures; in coordinating agency wide NEPA reporting; and in preparing comments on NEPA documents prepared by other agencies.
 - (d) **Environmental Program Officers.** Environmental Program Officers (EPOs) work with applicants under the direction of the NEPA Coordinator to ensure NEPA compliance at the project level.
 - (e) **NTIA Chief Counsel.** The NTIA Chief Counsel, or an authorized designee, provides legal services regarding NEPA compliance to include:
 - a. Providing legal sufficiency reviews of NEPA documents, as appropriate;
 - b. Assisting the NEPA Delegated Authorities and NEPA Coordinator in determining the applicability of NEPA and the level of review for a proposed action, as appropriate; and
 - c. Assisting the NEPA Delegated Authorities and NEPA Coordinator in establishing or revising this policy and the NTIA NEPA program, as necessary.



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General Environmental Review Process

The environmental review process describes the applicable CE, EA, or EIS for a proposed NTIA action and includes measures required by the CEQ regulations for compliance with NEPA. The process involves the following actions accomplished under the authority of the NTIA NEPA Delegated Authorities and executed by authorized NTIA personnel with specific roles and responsibilities described in this policy.

Developing the Purpose and Need

NTIA shall ensure the purpose and need of a proposed action considers the NTIA mission while not unduly limiting the range of alternatives to be considered in accomplishing its statutory mission. NTIA is principally responsible by law for advising the President on telecommunications and information policy issues.

Applying NEPA Early in the Process

NTIA shall integrate the NEPA process with program and project planning at the earliest possible time to ensure that decisions reflect environmental considerations to avoid delays or potential conflicts. Accordingly, NTIA shall:

- (a) Identify environmental impacts and resources in adequate detail so they can be considered and evaluated along with economic and technical considerations. Wherever practicable, environmental documents with appropriate analyses should be circulated and reviewed at the same time as other planning documents.
- (b) Study, develop, and analyze reasonable alternatives to recommended courses of action.
- (c) Consider mitigation measures that could avoid, ameliorate, lessen, or provide compensation for identified impacts of the proposed action.

Where the action requiring NTIA review will be undertaken by an Applicant:

- (a) The NTIA NEPA Delegated Authority, NEPA Coordinator, Environmental Program Officer, or other assigned NTIA personnel shall advise the Applicant of NTIA's policies and procedures for NEPA compliance and make available or direct the Applicant to resources within NTIA, the Department, or elsewhere in the federal government to facilitate the Applicant's consideration of, and explanation of, environmental impacts and alternatives.
- (b) NTIA shall consult with appropriate state, territorial, local, and Tribal governments, and other relevant organizations on environmental impacts of, and alternatives to, a proposed action when necessary and may appoint a state, Tribal, or local agency as joint lead agency.
- (c) NTIA shall initiate its NEPA review process at the earliest practicable time.

Scoping

NTIA shall comply with scoping procedures described in the CEQ regulations that are required



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for proposed actions normally requiring an EIS. In some, but not all, circumstances, and at the discretion of the NTIA NEPA Delegated Authority, the NEPA Coordinator, or EPO, scoping shall also be conducted on an EA. Additionally, NTIA may also require scoping procedures to be followed for other proposed actions, where appropriate, to achieve the purposes of NEPA. When evaluating the type and extent of the NEPA review and document, NTIA shall:

- (a) Define the purpose and need of a proposed action.
- (b) Identify reasonably foreseeable impacts of the action to determine if consultation with other federal, state, territorial, local, or Tribal entities is needed.
- (c) Determine if other federal agency actions are part of a proposed action and establish lead and coordinating agencies for the action, as appropriate.
- (d) Identify or develop reasonable alternatives to a proposed action.
- (e) Consider the context and intensity of the potential direct, indirect, and cumulative environmental effects of a proposed action(s) and any reasonable or appropriate alternatives.
- (f) Consider mitigation measures or strategies to minimize, reduce, or eliminate the environmental impacts of a proposed action(s), as necessary.

Public Involvement

In carrying out its responsibilities under NEPA, NTIA shall comply with the public involvement requirements described in the CEQ regulations and make diligent efforts to involve the public in the environmental review process. In addition, NTIA shall:

- (a) Ensure that all public notices relating to environmental matters describe the nature, location, and extent of the proposed action and indicate the availability and location of additional information relating to the matter.
- (b) Determine the appropriate medium(s) for publishing notices relating to environmental matters on a project-by-project basis.
- (c) Assess and consider public comments both individually and collectively and ensure that responses to public comments are appended to the applicable environmental document, as appropriate.
- (d) Make available to the public those project-related environmental documents that NTIA determines will enhance public participation in the environmental process. These materials shall be placed in locations convenient for the public as determined by NTIA; and
- (e) Hold public hearings or meetings at reasonable times and locations concerning environmental aspects of a proposed action in all cases where, in the opinion of NTIA, hearings or meetings are needed to develop adequate information on the environmental implications of the proposed action. Public hearings or meetings conducted by NTIA shall be coordinated to the extent practicable with other meetings, hearings, and environmental reviews that may be held or required by other federal, state, territorial,



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and local agencies.

General Requirements for Categorical Exclusions

CEs are categories of actions that NTIA has found, based on experience with similar actions, do not individually or cumulatively have significant environmental impacts and normally do not require any further NEPA review. NTIA actions, including granting permits, licenses, or financial assistance to Applicants, that fit the description of actions in Appendix B, Categorical Exclusions, and where no extraordinary circumstances are present, are categorically excluded from further environmental review. If an extraordinary circumstance is present, NTIA nevertheless may categorically exclude the proposed action if it determines that there are circumstances that lessen the impacts or other conditions sufficient to avoid significant effects. NTIA may apply a CE to a proposed action in accordance with the following requirements.

- (a) NTIA shall not be required to, but may at its discretion, document its determination that a CE applies to a proposed action.
- (b) Documentation prepared by an Applicant to demonstrate that an action qualifies for a CE shall be provided for NTIA's independent review and evaluation.
- (c) Any action that normally would be classified as a CE but would involve any of the extraordinary circumstances identified in Appendix C shall require NTIA, in cooperation with the Applicant, to conduct and document the appropriate environmental analysis to determine if the action warrants a CE, or if the preparation of an EA or EIS is required.
- (d) NTIA has identified the extraordinary circumstances that, if present, may result in a potentially significant environmental effect in the list provided in Appendix C.
- (e) The list of approved NTIA CEs is subject to continual review and can be modified by amending/revising this policy and updating Appendix B, in consultation with CEQ.
- (f) The use of a CE does not relieve NTIA or an Applicant of obligations to comply with other statutes or required consultations, such as under the Endangered Species Act of 1973 (16 U.S.C. §§ 1531 *et seq.*) or the National Historic Preservation Act of 1966 (16 U.S.C. §§ 470 *et seq.*) (see Appendix A).

General Requirements for Environmental Assessments

NTIA or an Applicant shall prepare an EA, as defined in the CEQ regulations, for a proposed action that NTIA determines may have significant environmental impacts. Actions normally requiring an EA include those where:

- (a) A proposed action is not in a category of actions described in an available CE and there is not enough information available to assess if the proposed action will have significant environmental impacts. In this situation, preparation of an EA is used to determine, through environmental analyses and public involvement, as appropriate, if the action may have potentially significant impacts on the quality of the human environment;



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- (b) A proposed action meets CE criteria, but extraordinary circumstances are present. NTIA may require further environmental analysis and potentially the preparation of an EA to determine if there are significant environmental impacts associated with the action; and/or
- (c) The Assistant Secretary or NTIA NEPA Delegated Authority, upon recommendation of the NEPA Coordinator, otherwise determines that the preparation of an EA is necessary to evaluate the environmental impacts of its actions.

Environmental Assessment Development Process

NTIA or an Applicant shall develop an EA in accordance with the following process and requirements.

- (a) The NEPA Coordinator can, at the request of the EPO or other assigned NTIA personnel, seek approval from the NTIA NEPA Delegated Authority to prepare an EA on an otherwise categorically excluded action as a planning tool to analyze the environmental impacts of a proposed action.
- (b) NTIA or an Applicant, in preparing an EA, shall ensure, at minimum, the contents of the EA shall:
 - (1) comply with the requirements of the CEQ regulations and adhere to statutorily established project timeline and scheduling requirements;
 - (2) include the information specified in the CEQ regulations;
 - (3) explain the environmental consequences of the proposed action; and
 - (4) set forth sufficient information and analysis for NTIA to determine the potential impacts associated with the proposed action.
- (c) If NTIA determines, based on an independent review, that the proposed action will not have a significant impact, NTIA may issue a finding of no significant impact (FONSI) as described in the CEQ regulations.
- (d) If, after review of the EA, NTIA determines that the proposed action may have a significant environmental impact, NTIA, in coordination with the Applicant, may amend the action described in the EA to avoid, minimize, or mitigate the potential environmental impacts.
- (e) If actions cannot be taken to avoid, minimize, or mitigate the potential environmental impacts and NTIA determines that the proposed action will have a significant environmental impact, NTIA, in coordination with the Applicant, shall proceed with the preparation of an EIS.
- (f) Rather than preparing a single EA or EIS as a basis for approving an entire project, NTIA, as necessary, may conduct one or more rounds or “tiers” of environmental reviews. These tiered reviews may cover general matters in a broader EA or EIS (e.g., contracts or policy statements) with subsequent narrower statements or environmental analyses (e.g., site-specific analyses), incorporating by reference the general discussion



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and concentrating solely on the issues specific to the statement subsequently prepared.

General Requirements for an Environmental Impact Statement

NTIA or an Applicant shall prepare an EIS when it determines that a proposed action may significantly impact the quality of the human environment or when the results of an EA indicate the proposed action will have significant impacts. Actions normally requiring the preparation of an EIS include:

- (a) Major federal actions found to cause significant effects on the human environment that cannot be mitigated to a level of insignificance (identifiable at the start of the NEPA process or through the preparation of an EA).
- (b) Major federal actions occurring in the United States that are known to cause significant environmental effects across international boundaries or on the global commons, as described in Executive Order (EO) 12114, Environmental Effects Abroad of Major Federal Actions; and
- (c) Actions for which NTIA is required by statute to develop an EIS.

Environmental Impact Statement Development Process

In preparing an EIS, NTIA shall solicit public involvement and comment as described in the CEQ regulations after preparing a draft EIS and before preparing a final EIS. NTIA shall also ensure the contents of an EIS contain the elements described in the CEQ regulations.

Unless NTIA determines that there is a compelling reason to do otherwise, NTIA shall follow the standard EIS format as described in the CEQ regulations.

Finally, NTIA shall prepare a concise public ROD in accordance with the CEQ regulations to document NTIA's decision. The EIS process shall be completed in accordance with page limits and deadlines established in 42 U.S.C. § 4336a(e) and (g).

Environmental Review and Consultation Requirements for NEPA Review

To the fullest extent possible, NTIA, in coordination with an Applicant, shall prepare NEPA documents concurrently and integrated with environmental analyses and related surveys and studies required by: the Fish and Wildlife Coordination Act, 16 U.S.C. § 661 *et seq.*; the National Historic Preservation Act, 54 U.S.C. § 300101 *et seq.*; the Endangered Species Act, 16 U.S.C. § 1531 *et seq.*; the Migratory Bird Treaty Act, 16 U.S.C. § 703 *et seq.*; the Bald and Golden Eagle Protection Act, 16 U.S.C. § 668 *et seq.*; EO 11990, Protection of Wetlands; EO 11988, as amended by EO 13690, Floodplain Management; and other applicable environmental laws and EOs.

Cumulative Impacts

NTIA NEPA analyses shall assess cumulative impacts, which are impacts on the environment resulting from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions.



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Environmental Justice

NTIA shall comply with EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and EO 14096, Revitalizing Our Nation's Commitment to Environmental Justice for All, and determine whether the proposed action will have a disproportionate and adverse impact on minority or low-income populations.

Greenhouse Gas Emissions and Climate Change

NTIA NEPA analyses shall consider the effects of greenhouse gas emissions and climate change when evaluating major federal actions in accordance with NEPA and the CEQ regulations.

Environmental Determinations and Final Decisions

The conclusion of the NEPA review process shall result in one of the following environmental determinations or final decisions.

(a) Categorical Exclusion

1. NTIA actions that fall within a CE and where no extraordinary circumstances are present, or where extraordinary circumstances are present, but NTIA determines that there are circumstances that lessen the impacts or other conditions sufficient to avoid significant effects, do not require any further NEPA review.
2. If a proposed action is determined to fall within a CE, NTIA shall not be required to, but may at its discretion, document its determination that a CE applies to a proposed action, unless extraordinary circumstances exist, in which case NTIA will document the determination.

(b) Finding of No Significant Impact

1. An EA results in either the issuance of a FONSI or a decision to prepare an EIS. A FONSI is a document that briefly states why an action (not otherwise excluded) will not significantly affect the environment. The FONSI documents the final decision made and the basis for that decision.
2. If the NTIA NEPA Delegated Authority, NEPA Coordinator, or EPO determines, based on an independent review of the EA, that the proposed action will not have a significant impact, NTIA may issue a FONSI and, after all other relevant requirements are met, proceed with the proposed action. However, if, after an independent review of the EA, it is determined by the NTIA NEPA Delegated Authority, at the recommendation of the NEPA Coordinator, EPO, or other assigned NTIA personnel, that the proposed action will have a significant environmental impact, NTIA shall proceed with the preparation of an EIS or decide to restructure or terminate the action.

(c) Record of Decision



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1. When it is determined that an EIS is required, NTIA's final decision relating to the proposed action shall consider the environmental information provided in the EIS and require the preparation of a ROD. The ROD documents the final decision made and the basis for that decision. A ROD shall be prepared in accordance with the CEQ regulations for the approval and signature of the NTIA NEPA Delegated Authority.
2. If all other requirements have been met, NTIA or an Applicant may begin implementing the proposed action immediately after the ROD is signed.

Mitigation

NTIA, throughout the environmental review process, shall consider mitigation measures, as defined in the CEQ regulations, and best practices to avoid or minimize environmental harm, where possible. In addition, the following actions shall be taken to ensure proper implementation of mitigation measures:

- (a) NTIA shall ensure a discussion of site-specific mitigation measures and best practices that are essential to rendering the impacts of the proposed action not significant is included or referenced in the FONSI, ROD, and/or Specific Award Condition (SAC), to address compliance with environmental protocols and measures, prior to making a final environmental determination or decision.
- (b) NTIA shall ensure that for any site-specific mitigation measures committed to in a FONSI, ROD, and/or SAC, there are sufficient legal authorities, and it is reasonably foreseeable that the sufficient resources will be available to perform and help monitor the mitigation.
- (c) Prior to and during the implementation of a site-specific action, NTIA shall monitor project activities to ensure the proper execution of any mitigation measures or other conditions established and committed to in environmental documentation, as appropriate.
- (d) If mitigation commitments made in NEPA and decision documents fail to achieve projected environmental outcomes and the federal action has not been completed, NTIA may utilize an adaptive management approach and take corrective actions to identify alternatives that could take the place of original mitigation commitments and produce the intended environmental result.

Tiering

NTIA shall tier environmental documents to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review, per the CEQ regulations and as appropriate. When a programmatic EIS has been prepared, NTIA or an Applicant need only summarize the issues discussed in the broader environmental document, incorporate discussions from the broader environmental document by reference, and focus the tiered document on issues specific to the subsequent action.



Emergencies

NTIA may implement an emergency NEPA process after determining there is a need for taking action that does not allow for time for the regular NEPA process. This section applies only if the NTIA NEPA Delegated Authority determines, in accordance with the provisions outlined below, that an emergency exists that makes it necessary to take urgently needed actions before preparing a NEPA analysis and documentation.

- (a) NTIA may take those actions necessary to control the immediate impacts of the emergency that are urgently needed to mitigate imminent harm to life, property, or important natural, cultural, or historic resources. When taking such actions, NTIA shall consider the probable environmental consequences of these actions and mitigate foreseeable adverse environmental effects to the extent practical.
- (b) The NTIA NEPA Delegated Authority shall document in writing the determination that an emergency exists and describe the responsive action(s) taken at the time the emergency exists. The form of that documentation is within the discretion of NTIA.
- (c) If the NTIA NEPA Delegated Authority determines that proposed actions taken in response to an emergency, beyond actions noted in paragraph (a) of this section, are not likely to have significant environmental impacts, the NTIA NEPA Delegated Authority shall document that determination in an EA and a FONSI in accordance with this policy, unless the proposed action is categorically excluded. If the NTIA NEPA Delegated Authority finds that the nature and scope of the subsequent actions related to the emergency require taking actions prior to completing an EA and a FONSI, the NTIA NEPA Delegated Authority shall determine alternative arrangements for NEPA compliance. The NTIA NEPA Delegated Authority may grant an alternative arrangement. Any alternative arrangement shall be documented and notice of its use provided to CEQ.
- (d) The NTIA NEPA Delegated Authority shall consult with CEQ about alternative arrangements as soon as possible if NTIA determines that proposed actions taken in response to an emergency are likely to have significant environmental impacts. Such alternative arrangements will apply only to the proposed actions necessary to control the immediate impacts of the emergency. Other proposed actions remain subject to NEPA analysis and documentation in accordance with this policy.



Appendix A – List of Authorities



List of Authorities

Statutes and Regulations

Statutes and regulations that should be considered during the development of a NEPA review include:

1. National Environmental Policy Act, 42 U.S.C. § 4321 et seq.
2. Council on Environmental Quality Regulations Implementing the National Environmental Policy Act, 40 C.F.R. Parts 1500-1508
3. Endangered Species Act, 16 U.S.C. § 1531 et seq.
4. Fish and Wildlife Coordination Act, 16 U.S.C. § 661 et seq.
5. National Historic Preservation Act, 54 U.S.C. § 300101 et seq.
6. Migratory Bird Treaty Act, 16 U.S.C. § 703 et seq.
7. Bald and Golden Eagle Protection Act, 16 U.S.C. § 668 et seq.
8. Clean Air Act, 42 U.S.C. § 7401 et seq.
9. Clean Water Act, 33 U.S.C. § 1251 et seq.
10. Coastal Zone Management Act, 16 U.S.C. § 1451 et seq.
11. Wild and Scenic Rivers Act, 16 U.S.C. § 1271 et seq.
12. Marine Mammal Protection Act, 16 U.S.C. § 31 et seq.
13. River and Harbors Act, 33 U.S.C. § 401 and 403
14. Fiscal Responsibility Act, Public Law 118-5

Executive Orders

EOs that should be considered during the development of a NEPA review include:

1. EO 11988, as amended by EO 13690, Floodplain Management
2. EO 12114, Environmental Effects Abroad of Major Federal Actions
3. EO 11990, Protection of Wetlands
4. EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
5. EO 13112, Invasive Species
6. EO 13175, Consultation and Coordination with Indian Tribal Governments
7. EO 13186, Responsibilities of Federal Agencies to Protect Migratory Birds
8. EO 13690, Establishing a Federal Flood Risk Management Standard and a Process for



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Further Soliciting and Considering Stakeholder Input

9. EO 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis
10. EO 14008, Tackling the Climate Crisis at Home and Abroad
11. EO 14030, Climate-Related Financial Risk
12. EO 14096, Revitalizing Our Nation's Commitment to Environmental Justice for All

Council on Environmental Quality Guidance

CEQ Guidance Documents that should be considered during the development of a NEPA review include:

1. "Memorandum for Heads of Federal Departments and Agencies: Emergencies and National Environmental Policy Act Guidance" (CEQ, 2020)
2. "Memorandum for Heads of Federal Departments and Agencies: One Federal Decision Framework for the Environmental Review and Authorization Process for Major Infrastructure Projects under Executive Order 13807" (CEQ, 2018)
3. "Memorandum of Understanding: Implementing One Federal Decision Under EO 13807" (CEQ, 2018)
4. "Memorandum for Heads of Federal Departments and Agencies: Guidance to Federal Agencies Regarding the Environmental Review and Authorization Process for Infrastructure Projects" (CEQ, 2017)
5. "Memorandum for Heads of Federal Departments and Agencies: Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews" (CEQ, 2016), *currently under review*
6. "Memorandum for Heads of Federal Departments and Agencies: Guidance Establishing Metrics for the Permitting and Environmental Review of Infrastructure Projects" (CEQ, 2015)
7. "Memorandum for Heads of Federal Departments and Agencies: Effective Use of Programmatic NEPA Reviews" (CEQ, 2014)
8. "NEPA and NHPA: A Handbook for Integrating NEPA and Section 106" (CEQ and ACHP, 2013)
9. "Memorandum for Heads of Federal Departments and Agencies: Improving the Process for Preparing Efficient and Timely Environmental Reviews Under the National Environmental Policy Act" (CEQ, 2012)
10. "Memorandum on Environmental Collaboration and Conflict Resolution" (OMB and CEQ, 2012)



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11. “Memorandum for Heads of Federal Departments and Agencies: Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact” (CEQ, 2011)
12. “Memorandum for Heads of Federal Departments and Agencies: Establishing, Applying, and Revising Categorical Exclusions Under the National Environmental Policy Act” (CEQ, 2010)
13. “Aligning National Environmental Policy Act Processes with Environmental Management Systems” (CEQ/NEPA Task Force, 2007)
14. “Guidance on the Consideration of Past Actions in Cumulative Effects Analysis” (CEQ, 2005)
15. “Memorandum for Heads of Federal Departments and Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act” (CEQ, 2002)
16. CEQ Memorandum for Deputy/Assistant Heads of Federal Agencies: Identifying Non-Federal Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act” (CEQ, 2000)
17. “CEQ Memorandum for Heads of Federal Agencies: Designation of Non-Federal Agencies to be Cooperating Agencies in Implementing the Procedural Requirements of NEPA” (CEQ, 1999)
18. “Memorandum for Heads of Agencies on the Application of the National Environmental Policy Act to Proposed Federal Actions in the United States with Transboundary Effects” (CEQ, 1997)
19. “Considering Cumulative Effects Under the National Environmental Policy Act” (CEQ, 1997)
20. “Environmental Justice: Guidance Under the National Environmental Policy Act” (CEQ, 1997)
21. “CEQ Guidance on NEPA Analyses for Transboundary Impacts” (CEQ, 1997)
22. “Memorandum to Heads of Federal Departments and Agencies Regarding Pollution Prevention and the National Environmental Policy Act” (CEQ, 1993)
23. “Incorporating Biodiversity Considerations into Environmental Impact Analysis Under the National Environmental Policy Act” (CEQ, 1993)
24. “CEQ Guidance Regarding NEPA Regulations” (CEQ, 1983)
25. “Forty Most Asked Questions Concerning CEQ’s NEPA Regulations” (CEQ, 1981)
26. “Scoping Guidance: Memorandum for General Counsels, NEPA Liaisons, and Participants in Scoping” (CEQ, 1981)
27. “Analysis of Impacts on Prime and Unique Agricultural Land in Implementing NEPA” (CEQ, 1980)



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28. “Memorandum for Heads of Agencies: Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory” (CEQ, 1980)
29. “Guidance on Applying Section 404(r) of the Clean Water Act to Federal Projects Which Involve the Discharge of Dredged or Fill Materials into Waters of the U.S., Including Wetlands” (CEQ, 1980)
30. “Environmental Effects Abroad of Major Federal Actions, Executive Order 12114; Implementing and Explanatory Documents” (CEQ, 1979)
31. “Memorandum for NEPA Liaisons: Agency Implementing Procedures Under CEQ’s NEPA Regulations” (CEQ, 1979)
32. “Memorandum for the Heads of Departments and Agencies: Wild and Scenic Rivers and National Trails” (CEQ, 1979)
33. “CEQ Memorandum for Heads of Agencies: Implementation of Executive Order 11988 on Floodplain Management and Executive Order 11990 on Protection of Wetlands” (CEQ, 1978)
34. “Environmental Review Pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974 and its Relationship to NEPA” (CEQ, 1976)



Appendix B – Categorical Exclusions



Categorical Exclusions

The Categorical Exclusions applicable to NTIA programs and listed in this appendix as available for NTIA actions include categorical exclusions established by the Department of Commerce (2009), those established by NTIA (2024), and six categorical exclusions established by the First Responder Network Authority in 2018 and adopted by NTIA in 2024.

Department of Commerce Categorical Exclusions (2009)

A-1 Minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities that do not result in a change in the functional use of the real property (e.g. realigning interior spaces of an existing building, adding a small storage shed to an existing building, retrofitting for energy conservation, or installing a small antenna on an already existing antenna tower that does not cause the total height to exceed 200 feet and where the FCC would not require an environmental assessment or environmental impact statement for the installation). This CE does not apply in instances where the project must be submitted to the National Capital Planning Commission (NCPC) for review and NCPC determines that it does not have an applicable Categorical Exclusion.

A-2 New construction upon or improvement of land where all of the following conditions are met:

- (a) The site is in a developed area and/or a previously disturbed site,
- (b) The structure and proposed use are compatible with applicable Federal, Tribal, State, and local planning and zoning standards and consistent with Federally approved State coastal management programs,
- (c) The proposed use will not substantially increase the number of motor vehicles at the facility or in the area,
- (d) The site and scale of construction or improvement are consistent with those of existing, adjacent, or nearby buildings, and
- (e) The construction or improvement will not result in uses that exceed existing support infrastructure capacities (roads, sewer, water, parking, etc.).

This CE does not apply where the project must be submitted to the National Capital Planning Commission (NCPC) for review and NCPC determines that it does not have an applicable Categorical Exclusion.

A-3 Software development, data analysis, or testing, including but not limited to computer modeling in existing facilities.

A-4 Siting/construction/operation of microwave/radio communication towers less than 200 feet in height without guy wires on previously disturbed ground.

A-5 Retrofit/upgrade existing microwave/radio communication towers that do not require ground disturbance.

A-6 Adding fiber optic cable to transmission structures or burying fiber optic cable in existing transmission line rights-of-way.



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A-7 Acquisition, installation, operation, and removal of communications systems, data processing equipment, and similar electronic equipment.

A-8 Planning activities and classroom-based training and classroom-based exercises using existing conference rooms and training facilities.

A-9 Purchase of mobile and portable equipment and infrastructure which is stored in previously existing structures or facilities.

A-10 Siting, construction (or modification), and operation of support buildings and support structures (including, but not limited to, trailers and prefabricated buildings) within or contiguous to an already developed area (where active utilities and currently used roads are readily accessible). This CE does not apply where the project must be submitted to the National Capital Planning Commission (NCPC) for review and NCPC determines that it does not have an applicable Categorical Exclusion.

A-11 Personnel, fiscal, management, and administrative activities, such as recruiting, processing, paying, recordkeeping, resource management, budgeting, personnel actions, and travel.

NTIA Categorical Exclusions (2024)

Administrative Actions

A-1 Personnel, fiscal, management, and administrative activities, including recruiting, processing, paying, recordkeeping, budgeting, personnel actions, contract administration, and travel.

A-2 Preparation, modification, and issuance of policy directives, rules, regulations, procedures, guidelines, guidance documents, bulletins, and informational publications that are of an administrative, financial, legal, technical, or procedural nature, for which the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will be, in whole or part, subject later to the NEPA process, either collectively or on a case-by-case basis.

A-3 Studies and engineering undertaken to define proposed actions or alternatives sufficiently so that environmental effects can be assessed.

A-4 Planning, educational, informational, or advisory activities provided to other agencies, public and private entities, visitors, individuals, or the public, including training exercises and simulations conducted under appropriately controlled conditions and in accordance with all applicable laws, regulations, and requirements.

A-5 Software development, data analysis, or testing that does not involve ground disturbing activities.

A-6 Preparation and dissemination of scientific results, studies, surveys, audits, reports, plans, papers, recommendations, and technical advice.

A-7 Technical assistance to other Federal, Tribal, State, and local agencies or the public.

A-8 Routine procurement, use, storage, transportation, and disposal of non-hazardous goods and services in support of administrative, operational, or maintenance activities in accordance with Executive Orders and Federal procurement guidelines. Examples include office supplies and furniture; equipment; mobile assets (*i.e.*, vehicles, vessels, aircraft); utility services; and deployable emergency response supplies and equipment.



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A-9 Purchase of deployable mobile and portable telecommunications equipment (e.g., radios, Cell on Wheels, Cell on Light Truck, System on Wheels) that will be housed in existing facilities when not deployed.

A-10 Routine use of hazardous materials (including procurement, transportation, distribution, and storage of such materials) and reuse, recycling, and disposal of solid, medical, radiological, or hazardous waste in a manner that is consistent with all applicable laws, regulations, and requirements. Examples include use of chemicals for laboratory applications; refueling of storage tanks; temporary storage and disposal of solid waste; disposal of waste through manufacturer return and recycling programs; and hazardous waste minimization activities, including source reduction activities and recycling.

A-11 Reductions, realignments, or relocation of personnel, equipment, or mobile assets that do not result in changing the use of NTIA facilities or space in such a way that could cause a change to existing environmental effects or exceed the infrastructure capacity outside of NTIA-managed property. An example of exceeding the infrastructure capacity would be an increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase.

A-12 Federal assistance, grants, and external funding for activities that do not concern environmental matters or where the environmental effects are negligible. Examples of relevant activities could include, but are not limited to, planning, studies, or programs such as the Digital TV transition, which provided rebates to consumers to subsidize the purchase of digital antennas, that have no potential to impact the environment. If an analysis determined that such activities had the potential to impact the environment, the CE could not be applied.

A-13 Contracts, collaborative research agreements, cooperative research and development agreements, interagency agreements, and other agreements that do not concern environmental matters or where the environmental effects are negligible.

Real Property/Facility Actions

B-1 Maintenance of facilities, equipment, and grounds. Examples include interior utility work, road maintenance, window washing, lawn mowing, landscaping, weed management/maintenance, trash collecting, facility cleaning, and snow removal.

B-2 Internal modifications, renovations, or additions (e.g., computer facilities, relocating interior walls) to structures or buildings that do not result in a change in the functional use of the property.

B-3 Exterior renovation, addition, repair, alteration, and demolition projects affecting buildings, roads, grounds, equipment, and other facilities, including subsequent disposal of debris, which may be contaminated with hazardous materials, lead, or asbestos. Hazardous materials must be disposed of at approved sites in accordance with all applicable laws, regulations, and requirements. Examples include the following:

- (i) Painting, roofing, siding, or alterations to an existing building;
- (ii) Adding a small storage shed to an existing building;



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- (iii) Retrofitting for energy conservation, including weatherization, installation of timers on hot water heaters, installation of energy efficient lighting, and installation of low-flow plumbing fixtures; or
- (iv) Closing and demolishing a building not eligible for listing under the National Register for Historic Places.

B-4 Abatement of hazardous materials from existing facilities, including asbestos and lead based paint, conducted in compliance with all applicable laws, regulations, and requirements established for the protection of human health and the environment. Examples include containment, removal, and disposal of lead-based paint or asbestos tiles and asbestos-containing materials from existing facilities, remediation of hazardous materials in accordance with all applicable laws, regulations, and requirements as part of facility and space management activities.

B-5 Proposed new activities and operations conducted in an existing structure that would be consistent with previously established safety levels and would not result in a change in use of the facility. Examples include new types of research, development, testing, and evaluation activities, and laboratory operations conducted within existing enclosed facilities designed to support research and development activities.

B-6 Acquisition or use of existing facilities or portion thereof by purchase, lease, or use agreement where use or operation will remain unchanged. Examples include acquiring office space through lease, purchase, or use agreement, and acquisition of laboratory space through lease, purchase, or use agreement.

B-7 Transfer of administrative control over real property, including related personal property, between another Federal agency and NTIA that does not result in a change in the functional use of the property. Examples include transfer of facilities for use by NTIA, transfers of computer equipment, office equipment, and personal property, including laptops and cell phones.

B-8 Decisions and actions to close facilities, decommission equipment, or temporarily discontinue use of facilities or equipment, where the facility or equipment, including office equipment, telecommunications equipment, and computer equipment, is not used to prevent or control environmental impacts.

B-9 The determination and disposal of real property, such as excess office space, or personal property, including laptops and cell phones, that is excess to the needs of NTIA, when the real property or personal property is excessed in conformity with applicable General Services Administration procedures or is statutorily authorized to be excessed.

Operational Actions

C-1 Research activities conducted in laboratories and facilities where research practices and safeguards prevent environmental impacts. Examples include types of research, development, testing, and evaluation activities, and laboratory operations conducted within existing enclosed facilities designed to support research and development activities.

C-2 Outdoor research activities conducted in compliance with all applicable laws, regulations, and requirements. Examples include types of research, development, testing, and evaluation activities conducted outdoors where no new ground disturbance occurs and no sensitive resources (*e.g.*,



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threatened or endangered species, archaeological sites, Tribal resources, wetlands, and waterbodies) are present, such as radar testing, radio noise measurements, and public safety communications research.

C-3 Periodic flight activities for training and research and development, that are routine and comply with all applicable laws, Federal Aviation Administration regulations, and other requirements.

C-4 New construction or improvement of land, operations, or support facilities, switching stations, maintenance facilities, and other non-tower structures supporting wired or wireless communications systems in a developed area and/or on previously disturbed ground, with no more than 1 acre (0.4 hectare) of ground disturbance, where the proposed facility use is generally compatible with the surrounding land use and applicable zoning standards, and will not require additional support infrastructure.

C-5 Installing, operating, maintaining, retrofitting, upgrading, repairing, removing, and/or replacement of existing microwave or radio communication towers, instruments, structures, or buildings that do not require ground disturbance outside of the original footprint, including installing or collocating equipment such as antennas, microwave dishes, or power units. For communications towers at or below 199 feet, renovations and equipment additions must not cause the total height of the tower to exceed 199 feet. Existing structures must not be eligible for listing in the National Register of Historic Places.¹

C-6 New construction or improvement of temporary buildings or experimental equipment (e.g., trailers, prefabricated buildings, and test slabs) on previously disturbed ground, with no more than 1 acre (0.4 hectare) of ground disturbance, where the proposed facility use is generally compatible with the surrounding land use and applicable zoning standards and will not require additional support infrastructure.

C-7 New construction of self-supporting (e.g., monopole or lattice) wireless communication towers at or below 199 feet with no guy wires that require less than 1 acre (0.4 hectare) of ground disturbance, and where another Federal agency would not require an EA or EIS for its acquisition, installation, operations, or maintenance.

C-8 Acquisition, installation, reconstruction, repair by replacement, and operation of aerial or buried utility (e.g., water, sewer, electrical), communication (e.g., fiber optic cable, data processing cable

¹ In response to comments expressing support for existing Departmental CEs including those of FirstNet, NTIA notes that establishment of these new CEs does not preclude the use of Departmental or other CEs that may be otherwise available to NTIA where they apply to a proposed action. Note that two existing Department of Commerce CEs (the Department's A-4 and FirstNet's B-7) may be applicable to related actions. A-4 allows *Siting, construction, operation, and maintenance of microwave/radio communication towers less than 200 feet in height without guy wires on previously disturbed ground*. FirstNet's B-7 provides that: *Changes or additions, including retrofit and upgrade, to telecommunications sites, towers under 200 feet, substations, switching stations, telecommunications switching or multiplexing centers, buildings, or small structures requiring new physical disturbance or fencing of less than one acre (0.4 hectare)*.



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and similar electronic equipment), and security systems that use existing rights-of-way, easements, grants of license, distribution systems, facilities, or similar arrangements.²

First Responder Network Authority Categorical Exclusions (Adopted 2024)

In assessing whether one of these proposed actions has the potential to result in significant effects, NTIA will consider the extraordinary circumstances established in the FirstNet Authority's NEPA procedures³ in addition to the NTIA extraordinary circumstances established in Appendix C of this guidance.

[B.3.] Construction of buried and aerial telecommunications lines, cables, and related facilities.

[B.4.] Changes to existing transmission lines that involve less than 20 percent pole replacement, or the complete rebuilding of existing distribution lines within the same right-of-way. Changes to existing transmission lines that require 20 percent or greater pole replacement will be considered the same as new construction.

[B.7.] Changes or additions to telecommunication sites, substations, switching stations, telecommunications switching or multiplexing centers, buildings, or small structures requiring new physical disturbance or fencing of less than one acre (0.4 hectare).

[B.12.] Rebuilding of power lines or telecommunications cables where road or highway reconstruction requires the Applicant to relocate the lines either within or adjacent to the new road or highway easement or right-of-way.

[B.13.] Phase or voltage conversions, reconductoring, or upgrading of existing electric distribution lines or telecommunications facilities.

[B.15.] Deployment of Cells on Wheels, Systems on Wheels, or another deployable architecture intended for temporary placement (no more than two years) on an impervious surface.

² In response to comments expressing support for existing Departmental CEs including those of FirstNet, NTIA notes that establishment of these new CEs does not preclude the use of Departmental or other CEs that may be otherwise available to NTIA where they apply to proposed actions involving buried and aerial lines, cables, and related facilities.

³ See Appendix C, https://www.firstnet.gov/sites/default/files/FirstNet_Implementing_Procedures_January_2018.pdf.



Appendix C – Extraordinary Circumstances



Extraordinary Circumstances

Extraordinary circumstances that may preclude the use of a CE include:

1. Proposed action occurs within an environmentally sensitive or unique¹ geographic area of notable recreational, ecological, scientific, cultural, scenic, or aesthetic importance.
2. Proposed action may adversely impact species listed or proposed to be listed as Endangered or Threatened Species or have adverse effects on designated Critical Habitat for these species.
3. Proposed action may adversely impact protected migratory birds or their habitats.
4. Proposed action may adversely affect historic, archeological, or cultural sites, including Native American Traditional Cultural Properties, properties listed or eligible for listing on the National Register of Historic Places.
5. Proposed action that restricts access to and ceremonial use of Indian sacred sites by Indian practitioners or adversely affects the physical integrity of such religious sacred sites.
6. Proposed action occurring in floodplains or involving significant changes to or effects on waterbodies, wetlands, floodplains, water quality, sole source aquifers, public water supply systems, or state, local, or tribal water quality standards established under the Clean Water Act or the Safe Drinking Water Act.
7. Proposed action may have a disproportionate and adverse human health or environmental effect² on low-income populations, minority populations, or other communities with environmental justice concerns, as defined in EO 14096.
8. Proposed action involving construction impacts on or near an active, inactive, or abandoned contaminated or hazardous waste site, or involving non-permitted generation, transportation, treatment, storage, or disposal of substances hazardous to human health or the environment, unless NTIA determines the action is consistent with an approved remediation plan for the site.
9. Proposed action would involve human exposure to ionizing or non-ionizing radiation or use of any radiation in excess of the Federal Communications Commission's established Maximum Permissible Exposure limits for human exposure to Radiofrequency Electromagnetic Energy fields.
10. Proposed action is controversial because of the introduction or employment of unproven technology, highly scientifically uncertain or unique environmental effects, substantial disagreement over the possible size, nature, or effect on the environment, or likelihood of degrading already existing poor environmental conditions.

¹ "Environmentally sensitive or unique" resources and areas may include: federal lands; areas having special designation or recognition such as prime or unique or agricultural lands; designated wilderness or wilderness study areas; wild and scenic rivers; coastal zones; National Wildlife Refuges; National Parks; areas of critical environmental concern; or other areas of high environmental sensitivity.

² [EO 14096](#) Section 3(i).



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11. Proposed action may violate a Federal, Tribal, state, or local law, regulation, policy, or requirement imposed for the protection of the environment.
12. Proposed size or scope of action is greater than is normal for an action of its type.
13. Proposed action may cause other significant effects on human health or the environment that have not been otherwise addressed.