

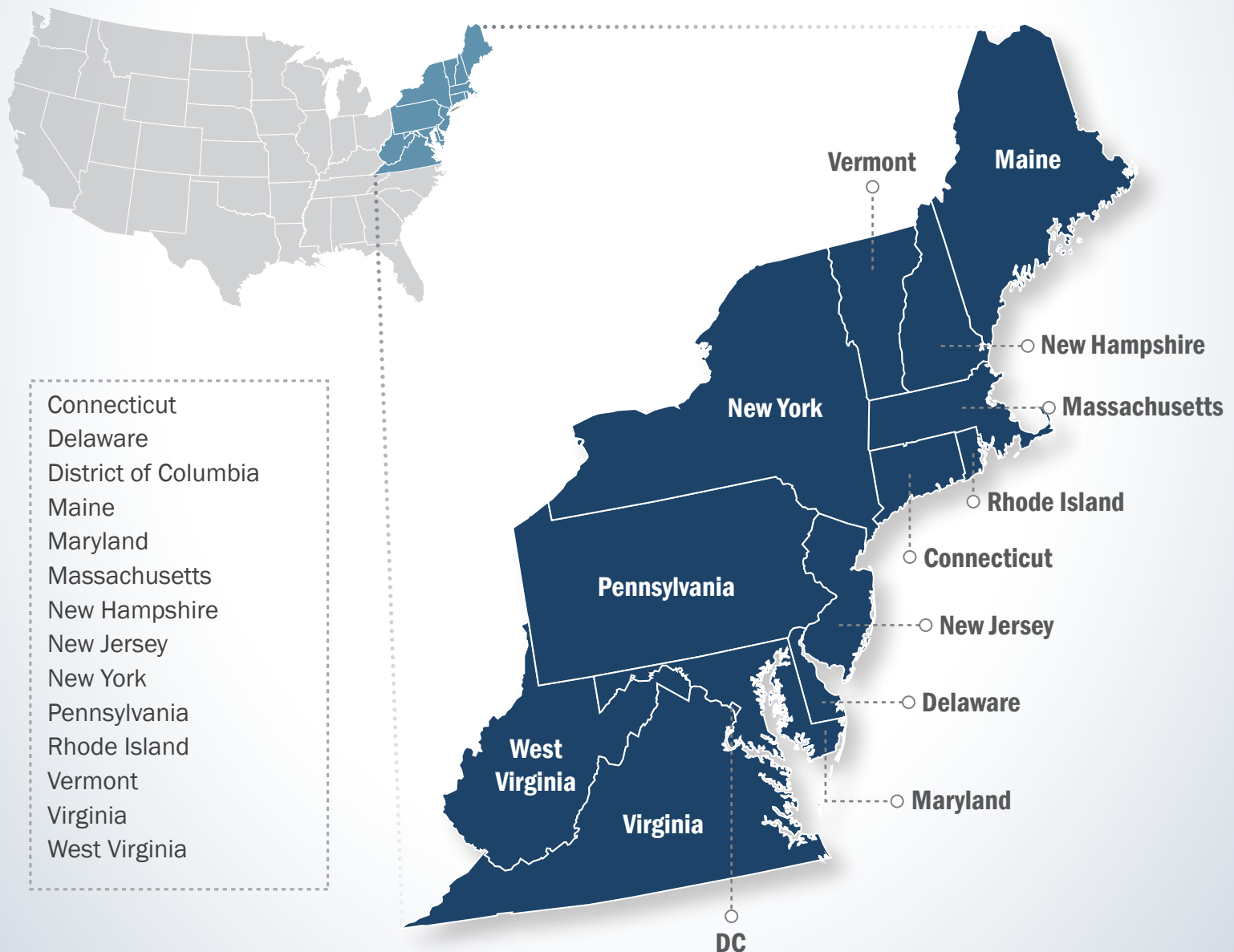


Nationwide Public Safety Broadband Network

Draft Programmatic Environmental Impact Statement

for the Eastern United States

VOLUME 15 - APPENDIX C



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First Responder Network Authority



Nationwide Public Safety Broadband Network **Draft Programmatic Environmental Impact Statement for the Eastern United States**

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Cooperating Agencies

Federal Communications Commission
General Services Administration
U.S. Department of Agriculture—Rural Utilities Service
U.S. Department of Agriculture—U.S. Forest Service
U.S. Department of Agriculture—Natural Resource Conservation Service
U.S. Department of Defense—Department of the Air Force
U.S. Department of Energy
U.S. Department of Homeland Security

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APPENDIX C – ENVIRONMENTAL LAWS AND REGULATIONS

The proposed implementation of the Proposed Action must meet the requirements of the National Environmental Policy Act and other applicable federal laws and regulations, Executive Orders, and implementing guidance for the resource areas evaluated in the Programmatic Environmental Impact Statement. Titles are listed alphabetically.

Table C-1: Applicable Laws and Regulations, Executive Orders, and Guidance

Title	Description
Laws and Regulations	
American Indian Religious Freedom Act (AIRFA) (42 United States Code [U.S.C.] §1996)	Protects and preserves for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Alaska Native, and Native Hawaiians, including access to culturally significant sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.
Archaeological Resources Protection Act of 1979 (ARPA) (16 U.S.C. §§470aa-470mm; Public Law [PL] 96-95)	Establishes requirements to protect archaeological resources and sites on public lands and Indian lands, including civil and criminal penalties for the destruction or alteration of cultural resources.
Bald and Golden Eagle Protection Act (16 U.S.C. §668 et seq.)	Prohibits the taking, possession, sale, purchase, barter, or offer to sell, purchase, or barter, export, or import of any part of a bald eagle or golden eagle.
Clean Air Act (CAA) (42 U.S.C. §§7401-7671g)	Protects air quality; authorizes the U.S. Environmental Protection Agency (USEPA) to establish National Ambient Air Quality Standards for six criteria pollutants that threaten human health and welfare: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO ₂), ozone (O ₃), sulfur dioxide (SO ₂), and particulate matter with a diameter equal to or less than 10 microns (PM ₁₀) or less than 2.5 microns (fine particles) (PM _{2.5}). Includes provisions for reducing soil erosion to preserve air quality.
Coastal Barrier Improvement Act of 1990 (CBIA) (PL 101-591)	Adds additional areas to the Coastal Barrier Resources System and secondary barriers within large embayments (coastline indentations that form a bay), and establishes a process to transfer interests in land to public or non-profit conservation organizations.
Coastal Barrier Resources Act of 1982 (CBRA) (PL 97-348)	Established the John H Chafee Coastal Barrier Resource System to protect sensitive and vulnerable barrier islands found along the U.S. Atlantic, Gulf, and Great Lakes coastlines, as well as Puerto Rico and the U.S. Virgin Islands.
Coastal Zone Management Act (CZMA) (16 U.S.C. § 1451 et seq.)	Enacted to protect the coastal environment from growing demands associated with residential, recreational, commercial and industrial uses. Coastal states with an approved Coastal Zone Management Plan identifying permissible land and water use within the state's coastal zone can review federal actions for federal consistency to determine if the actions are consistent with the state program's enforceable policies.
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA - Superfund Law) (42 U.S.C. §9601)	Authorizes the USEPA to respond to releases, or threatened releases, of hazardous substances that may endanger public health, welfare, or the environment. Requires the USEPA to establish criteria for determining priorities among releases (or threatened releases) of hazardous substances for the purpose of taking remedial action.
Construction, Marking, and Lighting of Antenna Structures of the Federal Communications Commission regulations, Part 17	Governs communications infrastructure under Part 17, which prescribes procedures for antenna structure registration and requires the Federal Aviation Administration (FAA) to conduct an aeronautical study of the navigation airspace to determine appropriate tower marking and lighting

Title	Description
(47 Code of Federal Regulations [CFR] Chapter 1)	requirements for safe airspace. Before the Federal Communications Commission authorizes the construction of new antennae or alteration of existing antennae structures, an FAA determination of “no hazard” may be required. FAA notification is required for new any construction greater than 200 feet above the ground, and near an airport runway (taller than 100:1 for a horizontal distance of 20,000 feet, 50:1 for a horizontal distance of 10,000 feet, and 25:1 for a horizontal distance of 5,000 feet of a heliport). The FAA can vary marking and lighting when requested if aviation safety is not compromised.
Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR Parts 1500-1508)	Provides direction to ensure compliance with procedures to achieve the goals of NEPA. Public officials are able to make decisions based on understanding of environmental consequences and take actions to protect, restore, and enhance the environment.
Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195)	Defines critical infrastructure as the assets, systems, and networks (physical or virtual) vital to the U.S., which if incapacitated or destroyed, would have a debilitating effect on security, national economic security, public health or safety, or a combination of these.
Disaster Mitigation Act of 2000 (DMA 2000) (PL 106-390)	Establishes the basis for Federal Environmental Management Agency disaster mitigation planning requirements as a condition of mitigation grant assistance to states, tribes, and local governments. Mitigation planning may be incorporated into a comprehensive master plan identifying hazards, analyzing risks, establishing priorities, and describing specific actions to address those risks.
Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. §§11004-11049)	Improves community access to information about chemical hazards and facilitates the development of chemical emergency response plans by states, tribes, and local governments. Establishes the Toxic Release Inventory to inform the public about potentially dangerous chemicals in their community.
Endangered Species Act (ESA) of 1973 (16 U.S.C. §1531 et seq.)	Ensures the protection and recovery of imperiled species and the habitats upon which they depend. Prohibits take, which is defined as harming, up to and including killing, or harassing a listed species. Section 7 of the ESA requires federal agencies to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the threatened or endangered species or result in destruction or adverse modification of critical habitat.
Energy Independence and Security Act of 2007 (PL 110-140)	Expands the production of renewable fuels and contains provisions for energy efficiency, smart grid, and carbon dioxide and incentives for plug-in hybrid electric vehicles to assist the electric power industry’s efforts to reduce greenhouse gas emissions.
Energy Policy Act of 2005 (PL 109-58)	Provides tax incentives and loan guarantees for energy production of various types.
Farmland Protection Policy Act of 1981 (FPPA) (PL 97-98, 7 U.S.C. §4201)	Requires federal agencies to examine the potentially adverse effects to “prime” and “unique” farmland resources before approving any action that would irreversibly convert farmlands to non-farm uses.
Federal Facility Compliance Act of 1992 (PL 102-386)	Amends the Solid Waste Disposal Act and expands the enforcement authority of federal and state regulators with respect to solid and hazardous waste management at federal facilities. Requires federal facilities to pay any nondiscriminatory fees or service charges assessed in connection with a federal, state, interstate, or local solid or hazardous waste regulatory program. Waives immunity for federal facilities under solid and hazardous waste laws by allowing states to fine and penalize for violations.

Title	Description
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. §136 et seq.)	Provides for federal regulation of pesticide distribution, sale, and use.
Federal Land Policy and Management Act of 1976 (43 U.S.C. §1701 et seq.)	Directs management of public lands, administered by the Bureau of Land Management, to protect the quality of the land and preserve certain public lands in their natural conditions.
Federal Telecommunications Act of 1996 (PL 104–104)	Establishes general criteria for the siting of telecommunication facilities.
Federal Water Pollution Control Act (Clean Water Act – CWA) (33 U.S.C. §1251 et seq.)	Protects water quality and aims to restore and maintain the chemical, physical, and biological integrity of “waters of the United States.” Section 303(d) requires states and USEPA to identify waters not meeting state water quality standards and to develop total maximum daily loads, defined as the maximum amount of a pollutant a waterbody can receive and still meet water quality standards. After determining total maximum daily loads for impaired waters, states are required to identify all point and nonpoint sources (runoff) of pollution in a watershed that are contributing to the impairment and to develop an implementation plan that will allocate reductions to each source in order to meet the state standards. Section 320 establishes the National Estuary Program, which identifies nationally significant estuaries threatened by pollution, and requires federal grants to states, interstate, and regional water pollution control agencies to prepare and implement conservation and management plans. Section 404 addresses prohibition and permitting for dredged materials and fill material into waters of the United States.
Fish and Wildlife Conservation Act of 1980 (16 U.S.C. §§2901-2911)	Declares that fish and wildlife are of ecological, educational, aesthetic, cultural, recreational, economic, and scientific value to the nation, and encourages all federal agencies to conserve and promote conservation of non-game fish and wildlife and their habitats.
Fish and Wildlife Coordination Act of 1934 (16 U.S.C. §§661-667e)	Mandates that fish and wildlife resources receive adequate and equal consideration in conjunction with other values during the planning of water resources development projects that may conflict with the goal of conserving fish and wildlife resources.
Flood Plain Management Criteria for Flood-prone Areas (44 CFR Part 60.3)	Provides guidance on Federal Emergency Management Agency floodplain management criteria for land management and use.
Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. §101 [note])	Establishes new U.S. transportation planning and policy for highway construction, highway safety, and mass transit funding. Provides funds for the Bridge Replacement and Rehabilitation Program, Scenic Byways Program, pedestrian and bicycle facilities (such as pedestrian bridges), and designation of high-speed rail corridors.
Landownership Adjustments (36 CFR Part 254)	Sets procedures for conducting exchanges of National Forest System lands and requires consideration of the public interest, including protection of fish and wildlife habitats, cultural resources, watersheds, and wilderness and aesthetic values, as well as enhancement of recreation opportunities and public access.
Magnuson-Stevens Fishery Conservation and Management Act of 1976 (16 U.S.C. §§1801-1882)	Requires conservation and management of U.S. fishery resources through implementation of fishery management plans and Regional Fishery Management Councils. Fishery management plans enable stakeholders to participate in the administration of fisheries, consider social and economic needs of states, develop underutilized fisheries, and protect essential fish habitats.
Marine Mammal Protection Act of 1972 (MMPA) (PL 95–522)	Prohibits the taking of marine mammals and enacts moratoriums on imports, exports, and sales of marine mammals and marine mammal parts or products within the United States. Defines “take” as “the act of

Title	Description
	hunting, killing, capture, and/or harassment of any marine mammal; or, the attempt at such.” Defines “harassment” as “any act of pursuit, torment or annoyance” that has potential to injure or disturb a marine mammal.
Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. §§1401–1445)	Establishes the marine sanctuaries program and provides a permitting process for the dumping of materials, including dredged materials, into U.S. ocean water.
Migratory Bird Treaty Act (MBTA) (16 U.S.C. §§703-712)	Regulates the taking, possession, import, export, transport, sale, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such a bird except under the terms of a valid permit.
National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.)	Requires federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their Proposed Actions and reasonable alternatives to those actions. Established CEQ; CEQ promulgated regulations implementing NEPA, which are binding on all federal agencies, to address the procedural provisions of NEPA and the administration of the NEPA process, including preparation of Environmental Impact Statements.
National Forest Management Act of 1976 (PL 94-588) National Forest System Land and Resource Management Planning (36 CFR Part 219)	Governs the administration of national forests and removal of trees. Includes requirements for consideration, treatment, and protection of intangible resources such as scenery and aesthetics.
National Historic Preservation Act (NHPA) (formerly 16 U.S.C. § 470 et seq., now 54 U.S.C. § 100101 et seq.)	Ensures protection of cultural resources and historic properties. Established the Advisory Council on Historic Preservation (ACHP) to promote the preservation, enhancement, and productive use of our nation’s historic resources. Authorizes the Secretary of the Interior to maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history and culture. Section 106 of the NHPA requires federal agencies to identify the effects of proposed actions on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. Under Section 106, the NHPA requires that federal agencies consult with federally-recognized Indian tribes and Native Hawaiian Organizations that attach traditional religious and cultural significance to eligible or listed historic properties that may be affected by the agency’s actions.
National Marine Sanctuaries Act (16 U.S.C. §1431 et seq.)	Authorizes the Secretary of Commerce to designate national marine sanctuaries based on statutory criteria and specifies consultation requirements.
National Trails System Act of 1968 (16 U.S.C. §1241)	Authorizes the Secretary of Agriculture to administer and manage national scenic trails for conservation and enjoyment.
Native American Graves Protection and Repatriation Act (NAGPRA) (PL 101–601, 104 Stat. 3048)	Establishes a process for museums and federal agencies to manage certain Native American cultural items in their possession or inadvertently discovered during a project; establishes the rights of Native American lineal descendants, American Indian tribes, and Native Hawaiian organizations with respect to the treatment, repatriation, and disposition of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony (referred to collectively in the statute as cultural items), with which they can show a relationship of lineal descent or cultural affiliation.
North American Wetlands Conservation Act of 1989 (PL 101-233)	Recognizes the aesthetic values of fish, shellfish, and other wildlife, and recognizes that wetlands provide aquatic areas important for recreational and aesthetic purposes. Federal agencies (to the extent possible) should cooperate to restore, protect, and enhance wetlands and other habitats for migratory birds, fish, and wildlife.

Title	Description
Occupational Safety and Health Act (OSHA) of 1970 (PL 91-596)	Mandates that employers provide a safe place of employment, free from hazards to safety and health.
Plant Protection Act (7 U.S.C. §7701 et seq.)	Establishes a program to control the spread of noxious weeds.
Procedures for Abatement of Highway Traffic Noise and Construction Noise (23 CFR 772)	Establishes procedures for conducting noise studies and implementing noise abatement measures, and provides guidelines to plan and design highway projects.
Resource Conservation and Recovery Act of 1976 (40 CFR Parts 239-282)	Amends the Solid Waste Disposal Act of 1965 to address how to safely manage and dispose of municipal and industrial waste generated nationwide. Identifies more stringent hazardous waste management standards, and a comprehensive regulatory program for underground storage tanks that store petroleum or certain hazardous materials.
Rivers and Harbors Act of 1899 (33 U.S.C. §403)	Addresses projects and activities in navigable waters and harbor and river improvements and prohibits the unauthorized obstruction or alteration of any navigable water of the United States, including altering any port, harbor, or channel.
Safe Drinking Water Act (42 U.S.C. §§300d-300j-9, as amended by PL 93-523)	Protects public health by regulating the nation's public drinking water and its sources, including protection of surface water and groundwater. Section 1424(e) of the Safe Drinking Water Act authorizes the Sole Source Aquifer Protection Program. Sole source aquifers are the sole or principal source of drinking water for an area, defined as providing 50 percent or more an area's drinking water supply. Any federally funded proposed project with the potential to contaminate a designated sole source aquifer is subject to USEPA review.
Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (PL 109-59)	Addresses maintenance and growth challenges of the U.S. transportation system (e.g., improving safety, reducing traffic congestion, improving efficiency in freight movement, increasing intermodal connectivity, and protecting the environment). Regulates efforts to address national transportation problems and provides state and local decision makers the flexibility to solve transportation problems at the regional and local levels.
Superfund Amendments and Reauthorization Act of 1986 (SARA) (PL 99-499)	Amends the Comprehensive Environmental Response, Compensation, and Liability Act as a result of lessons learned from managing the Superfund program. Stresses the importance of permanent remedies and innovative treatment technologies in cleaning up hazardous waste sites, encourages greater citizen participation in cleanup decisions, and increases the size of the trust fund.
Toxic Substances Control Act of 1976 (TSCA) (15 U.S.C. Chapter 53)	Gives the USEPA the authority to require reporting, record-keeping, and testing relating to toxic chemical substances or mixtures.
Wild and Scenic Rivers Act (16 U.S.C. §§1271-1287) Wild and Scenic Rivers (36 CFR Part 297)	Provides for a Wild and Scenic River System by recognizing the remarkable values (scenic, recreational, geologic, fish and wildlife, historic, cultural, or other values) of specific rivers of the United States. The Wild and Scenic Rivers designation includes requirements for the protection of scenic and natural values from the effects of any water resources project.
Wilderness Act of 1964 (16 U.S.C. §1131)	Provides for the preservation of wilderness character and protects and manages the natural conditions of wilderness areas to negate the impact of humankind.
Executive Orders	
Executive Order 11988 Floodplain Management	Requires federal agencies to avoid, to the extent possible, the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative.

Title	Description
Executive Order 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	Ensures that federal agencies avoid taking actions that have a disproportionately high and adverse impact on low-income populations or minority populations. Emphasizes the importance of NEPA's public participation process, directing that each federal agency shall provide opportunities for community input in the NEPA process.
Executive Order 13007 Indian Sacred Sites	Directs federal agencies to accommodate access to and avoid adversely affecting American Indian sacred sites.
Executive Order 13089 Coral Reef Protection	Directs federal agencies to avoid degradation of coral reef ecosystems and implement measures to restore affected ecosystems.
Executive Order 13112 Invasive Species	Directs federal agencies to prevent the introduction of plant, animal, and microorganism invasive species, and control and minimize the economic, ecologic, and human health impacts that invasive species may cause.
Executive Order 13186 Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input	Implements the Federal Flood Risk Management Standard as part of a national policy on resilience and risk reduction, consistent with the President's Climate Action Plan. Amends EO 11988, and emphasizes consideration by agencies of ecosystem-based alternatives and long-term resilience and risk reduction when managing flood risks.
Executive Order 13340 Great Lakes Interagency Task Force and Promotion of a Regional Collaboration of National Significance for the Great Lakes	Specifies 11 federal agency and Cabinet-level departments to provide strategic direction on federal Great Lakes policies, priorities, and programs.
Executive Order 13547 Stewardship of the Ocean, Our Coasts, and the Great Lakes	Provides national policy to ensure the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources.
Executive Order 13653 Preparing the United States for the Impacts of Climate Change	Directs federal agencies to take steps that will make it easier for American communities to strengthen their resilience to climate change impacts.
Executive Order 13690 Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input	Implements the Federal Flood Risk Management Standard as part of a national policy on resilience and risk reduction, consistent with the President's Climate Action Plan. Amends EO 11988, and emphasizes consideration by agencies of ecosystem-based alternatives and long-term resilience and risk reduction when managing flood risks.
Executive Order 13693 Planning for Federal Sustainability in the Next Decade	Establishes target of 40 percent greenhouse gas emission reduction for federal operations by 2025, relative to a fiscal year 2008 baseline. Primary emphasis is on increasing energy efficiency before considering renewable energy and alternative fuels. Federal agencies will continue to prepare annual Strategic Sustainability Performance Plans for Council on Environmental Quality review.
Guidance	
Council on Environmental Quality Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions	Provides guidance on how to incorporate the environmental effects of greenhouse gas emissions and the relationship of climate change in NEPA documentation.

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