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Dated: April 23, 2014.

Stuart Kupinsky,

Chief Counsel, First Responder Network Authority.

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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration First Responder Network Authority

[Docket Number: 131219999–4337–02]

RIN 0660–XC009

National Environmental Policy Act Implementing Procedures and Categorical Exclusions

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The First Responder Network Authority (FirstNet) publishes this notice of its final procedures for implementing the National Environmental Policy Act (NEPA).

DATES: These procedures become effective April 29, 2014.

ADDRESSES: A complete set of comments filed in response to the *First Responder Network Authority: National Environmental Policy Act Implementing Procedures and Categorical Exclusions* published on January 8, 2014, is available at: *http://www.ntia.doc.gov/federal-register-notice/2014/comments-notice-firstnet-nepa-implementing-procedures.* The final *First Responder Network Authority: National Environmental Policy Act Implementing Procedures* is available at: *http://www.ntia.doc.gov/category/firstnet.*

FOR FURTHER INFORMATION CONTACT: Genevieve Walker, First Responder Network Authority, U.S. Department of Commerce, 1401 Constitution Avenue NW., HCHB Room CC219, Washington, DC 20230; (202) 482–4385; or *genevieve.walker@firstnet.gov.*

SUPPLEMENTARY INFORMATION:

I. National Environmental Policy Act

The National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) (NEPA) requires federal agencies to undertake an assessment of environmental effects of their proposed actions prior to making a final decision and implementing the action. NEPA requirements apply to any federal project, decision, or action that may have a significant impact on the quality of the human environment. NEPA also establishes the Council on Environmental Quality (CEQ), which issued regulations implementing the procedural provisions of NEPA as codified in 40 CFR parts 1500–1508. Among other considerations, CEQ regulations require federal agencies at 40 CFR 1507.3 to adopt their own implementing procedures to supplement CEQ's regulations implementing NEPA and to consult with CEQ during their development and prior to publication in the **Federal Register**.

The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96, 126 Stat. 156 (2012)) (Act) creates and authorizes FirstNet to take all actions necessary to ensure the design, construction, and operation of a nationwide, interoperable public safety broadband network (PSBN) based on a single, national network architecture. The Act meets a long-standing and critical national infrastructure need to create a nationwide interoperable network that will, for the first time, allow police officers, fire fighters, emergency medical service professionals, and other public safety officials to effectively communicate with each other across agencies and jurisdictions.

As a newly created entity, FirstNet did not have procedures for implementing NEPA. These NEPA implementing procedures are necessary to assist FirstNet in establishing a NEPA compliance program and applying the appropriate level of NEPA review for activities undertaken by FirstNet in the design, construction, and operation of the nationwide interoperable PSBN.

Accordingly, on January 8, 2014, FirstNet published a notice in the **Federal Register** (First Responder Network Authority: National Environmental Policy Act Implementing Procedures and Categorical Exclusions, 79 FR 1363 (January 8, 2014)) requesting public comment on its proposed implementing procedures before utilizing them as part of its NEPA review process. The final procedures are set forth as an addendum to this notice.

II. Background

FirstNet is responsible for, at a minimum, ensuring nationwide standards for the use of, and access to, the network; issuing open, transparent, and competitive requests for proposals (RFPs) to build, operate, and maintain the network; encouraging these RFPs to leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network; and overseeing contracts with non-federal entities to build, operate, and maintain the network.

The specific actions anticipated to be undertaken by FirstNet encompass a variety of activities including the installation of cables, cell towers, antenna collocations, buildings, and power units as defined in the following examples:

(a) *Buried Plant/Facilities:* The construction of buried outside plant facilities generally consists of plowing or trenching cable at a depth of approximately 36'' to 48'' alongside the road usually in a utility corridor or within public road rights-of-way.

(b) *Aerial Plant/Facilities:* The construction of aerial facilities is either done by hanging cables on new poles, typically on public rights-of-way, or by installing cables using existing poles owned by a third party.

(c) *Towers:* The construction of towers for cell sites and/or microwave dishes. Tower construction is typically done by building a tower on a new foundation. The heights of the towers generally vary from 120 feet to 400 feet.

(d) *Collocations:* The mounting or installation of an antenna or other communications device on an existing tower, building, or structure for the purpose of transmitting and/or receiving radio frequency signal for communication purposes.

(e) *Ancillary Facilities:* Generally consists of installing small pre-fabricated shelters on tower sites that are used for housing electronic equipment. These shelters are usually placed on concrete pads and generally require very minimal disturbance of the land. On extremely rare occasions, the construction of a headquarters and/or warehouse building may be necessary. The amount of land disturbance resulting from this type of construction can vary depending on the size of the proposed building.

(f) *Power Units:* The installation of power units, such as, an uninterruptible power supply (UPS), could be added to existing third party tower sites either on the existing concrete pad or by adding a new concrete pad if required at the site.

(g) *Wireless Telecommunications Facility:* An installation that sends and/or receives radio frequency signals, including but not limited to directional, omni-directional, and parabolic antennas, structures or towers (no more than 199 feet tall with no guy wires) to support receiving and/or transmitting devices, cabinets, equipment rooms,

accessory equipment, and other structures, and the land or structure on which they are all situated.

FirstNet is also required to leverage, to the maximum extent economically desirable, existing commercial infrastructure in its deployment and operation of the PSBN.

The geographic scope of the PSBN encompasses all U.S. states and territories. Thus, FirstNet actions will likely occur in a wide range of environmental settings and require FirstNet to establish a process for analyzing proposed actions and making NEPA determinations based on the specific location and type of proposed project activities.

Therefore, FirstNet establishes these NEPA implementing procedures to better follow the letter and spirit of NEPA; comply fully with the CEQ regulations; and apply the NEPA review process early in the planning stages of the nationwide PSBN.

III. Comments and Agency Responses

Comment #1

The PCIA-Wireless Infrastructure Association (PCIA) recommends FirstNet establish a forum for governmental and non-governmental parties, including telecommunications providers, manufacturers, and tower owners, to play an integral role in FirstNet's build-out, so that FirstNet can factor in the forum's input in developing its procedures and any future Notices.

Agency Response

FirstNet acknowledges the recommendation and will continue to engage governmental and non-governmental parties, as appropriate, in order to comply with relevant environmental requirements.

Comment #2

PCIA comments that collocating on existing facilities is the most economical and expeditious method of deploying wireless facilities, and, by maximizing collocations, FirstNet could minimize delays, achieve significant cost savings, and build-out a more comprehensive nationwide public safety broadband network.

Agency Response

FirstNet understands the importance of leveraging existing infrastructure, including collocations, and will utilize, to the maxim extent economically desirable, existing federal, state, tribal, local, commercial or other communications infrastructure in establishing the nationwide public safety broadband network.

Comment #3

PCIA expresses concerns that the proposed ''extraordinary circumstances'' identified in Appendix D do not provide any discussion of rationale for why and when an extraordinary circumstance will preclude the application of a categorical exclusion.

Agency Response

FirstNet determinations relating to the existence of extraordinary circumstances that preclude the application of a categorical exclusion will be made on a case-by-case basis and based on a review of the relevant factors (*e.g.,* type of activity, geography, and biology) related to a specific proposed action.

Comment #4

PCIA comments that FirstNet should provide more detail concerning the ''nuts and bolts'' of its proposed procedures, including specific NEPA and NHPA procedures and timelines for completing the review process where an action requiring FirstNet review is by a private applicant or non-federal entity.

Agency Response

FirstNet intends to provide additional guidance on NEPA and NHPA requirements that may affect a private applicant or non-federal entity on its Web site and through future stakeholder outreach, as appropriate.

Comment #5

PCIA recommends that the FirstNet NEPA implementing procedures provide guidance for determining which agency will be the lead agency in any multi-agency projects.

Agency Response

FirstNet understands the importance of coordinating with other agencies in complying with NEPA and intends to follow the process described in 40 CFR 1501.5 in determining lead and cooperating agencies in multi-agency projects for the purpose of NEPA.

Comment #6

PCIA commented that FirstNet should consider integrating aspects of the Federal Communication Commission's (FCC) environmental and historic preservation processes and procedures, including FCC rules establishing the standard for developing an EA and use of the Tower Construction Notification System (TCNS).

Agency Response

FirstNet will evaluate the effectiveness of these and other processes and procedures in complying with applicable environmental, historic, and cultural resource requirements.

Comment #7

U.S. Department of the Interior (DOI) recommends including the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to the list of requirements to Section 1.07, *Environmental Review and Consultation Requirements of NEPA Review.*

Agency Response

FirstNet has added the citations for the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to this section.

Comment #8

DOI recommends inclusion of language in Section 1.07, *Developing the Purpose and Need,* which would ensure consideration of all other authorities to which NEPA is supplemental as opposed to simply the FirstNet mission.

Agency Response

FirstNet intends to consider all other relevant authorities during the NEPA review for a proposed action and does not consider further supplemental language in this section to be necessary.

Comment #9

DOI recommends that FirstNet be required to coordinate with federal agencies having jurisdiction by law or special expertise on construction and lighting of its network of towers.

Agency Response

FirstNet understands the importance of coordinating with other agencies in complying with NEPA and intends to follow the process described in 40 CFR 1501.5 in determining lead and cooperating agencies for the purpose of NEPA.

Comment #10

DOI recommends including species covered under the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to the list of environmentally sensitive resources.

Agency Response

FirstNet has added language to include the species and habitat listed under the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to the list of environmentally sensitive resources listed in Appendix D.

Comment #11

DOI recommends adding important resources to migratory birds such as sites in the Western Hemisphere Shorebird Reserve and Audubon Important Bird Areas to list of environmentally sensitive resources listed in Appendix D.

Agency Response

FirstNet will consider impacts on migratory birds in areas such as the Western Hemisphere Shorebird Reserve and Audubon Important Bird Areas as part of the NEPA review for its proposed actions, as appropriate, and considers the addition of the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to Appendix D sufficient to identify and account for impacts on these resources.

Comment #12

DOI suggests that FirstNet consider preparing a programmatic environmental impact statement (PEIS) to determine and address cumulative impacts from authorizing FirstNet projects on those 241 species for which the incremental impact of tower mortality, when added to other past, present, and reasonably foreseeable future actions, is most likely significant, given their overall imperiled status, including the impacts on species of birds whose populations are in trouble or otherwise merit special protection.

Agency Response

FirstNet will consider this recommendation as it continues to integrate the NEPA process with its other planning for the nationwide public safety broadband network.

Comment #13

DOI recommends revisions to the procedures that better reflect the impacts on resources under DOI jurisdiction relating to communication towers, including injury, crippling loss, and death from collision with towers or supporting guy-wire infrastructure and significant issues associated with communication towers involving impacts from non-ionizing electromagnetic radiation.

Agency Response

FirstNet will consider impacts on resources under DOI or other agency jurisdiction as part of the NEPA review for its proposed actions, as appropriate, and considers the *Environmental Review Process* established in section 1.07 of the procedures a reasonable process for identifying and accounting for impacts on these resources.

Comment #14

A commenter suggested the development and inclusion of a Determination of Adequacy or some form of a checklist to identify and address issues relating to whether an action requires NEPA review.

Agency Response

FirstNet will consider this recommendation as it continues to integrate the NEPA process with its other planning for the nationwide public safety broadband network.

Comment #15

A commenter asked whether FirstNet will have a formal appeal process which allows another agency or the public to make an appeal of an environmental determination or final decision.

Agency Response

FirstNet will comply with the timing of agency action requirements described in 40 CFR 1506.10, but will not have an additional formal appeal process that will allow another agency or the public to make an appeal after FirstNet has made an environmental determination or final decision. Rather, FirstNet anticipates that public and agency involvement relating to NEPA compliance will occur as described in *Environmental Review Process* established in section 1.07 of its NEPA implementing procedures.

Comment #16

Commenters suggested various minor edits to the document.

Agency Response

FirstNet reviewed these suggestions and made minor word and document edits, as appropriate.

IV. Paperwork Reduction Act

This notice does not contain collection-of-information requirements subject to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Moreover, any action taken or made by FirstNet is exempt from the requirements of the PRA. *See* 47 U.S.C. 1426(d). Notwithstanding any other provisions of law, no person is required to, nor shall a person be subject to penalty for failure to comply with, a collection of information subject to the requirements of PRA unless that collection of information displays a currently valid OMB control number.

V. Environmental Impact

These NEPA implementing procedures are intended to supplement the CEQ regulations and provide procedural guidance to assist FirstNet in the fulfillment of its responsibilities under NEPA. The requirements for establishing NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3.

Dated: April 23, 2014.

Stuart Kupinsky,

Chief Counsel, First Responder Network Authority

Addendum

First Responder Network Authority
Management Directive

First Responder Network Authority Procedures for Implementing the National Environmental Policy Act

Sections

1.01 Purpose
1.02 Scope
1.03 Policies
1.04 Definitions
1.05 Program Goals
1.06 Responsibilities
1.07 Environmental Review Process
1.08 Effective Date
Appendix A—List of Authorities
Appendix B—Glossary
Appendix C—Categorical Exclusions
Appendix D—Extraordinary Circumstances

1.01

PURPOSE

The purpose of this Management Directive (Directive) is to establish the First Responder Network Authority (FirstNet) policies, requirements, and procedures for complying with the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA), and the implementing regulations issued by the Council on Environmental Quality (CEQ Regulations) as codified in Parts 1500–1508 of Title 40 of the Code of Federal Regulations (40 CFR parts 1500–1508).

1.02

SCOPE

The provisions of this Directive apply to actions undertaken by FirstNet and specifically apply to any of the following actions:

(a) Legislative proposals initiated by FirstNet for which FirstNet would have primary action responsibility.

(b) Research, projects, and activities directly undertaken by FirstNet, or the research, projects and activities of a non-federal entity which are determined to be subject to the control and responsibility of FirstNet.

(c) Actions to establish an official policy or adopt a formal plan or program. (40 CFR 1508.18).

1.03

POLICIES

FirstNet policies and programs shall be planned, developed, and implemented so as to achieve the purposes and to follow the procedures outlined by NEPA in order to assure responsible stewardship of the environment for present and future generations. Accordingly, FirstNet shall adhere to the following actions to ensure compliance with NEPA:

(a) FirstNet adopts the CEQ Regulations (40 CFR parts 1500–1508) for implementing NEPA.

(b) FirstNet shall:

1. Comply with the CEQ regulations (40 CFR parts 1500–1508);

2. Report and coordinate its policies and procedures with the Department of Commerce Office of General Counsel, as appropriate;

3. Ensure activities and planning regarding federal actions consider the environmental consequences of proposed actions in conjunction with mission requirements and objectives;

4. Consider and give weight to environmental factors in making decisions in order to achieve a proper balance between the development and utilization of natural, cultural, and human resources and the protection and conservation of environmental quality for succeeding generations;

5. Consult, coordinate, cooperate, and partner with other federal agencies and state, local and tribal governments, as appropriate, in the development and implementation of FirstNet's plans and programs affecting environmental quality and, in turn, give consideration to those activities that succeed in best addressing state and local concerns;

6. Identify and invite, as appropriate, potential federal, state, local, and tribal governments to participate as cooperating agencies early during the NEPA scoping process;

7. Participate as a lead or cooperating agency, as appropriate, with other federal agencies where FirstNet is involved in the same action as other agencies, or is involved in an action which is related to another agency's action because of their functional interdependence or geographical proximity;

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 FirstNet's mission or operations;

(c) FirstNet shall ensure appropriate action is taken to comply with NEPA when actions are planned by private applicants or other non-federal entities before federal involvement. This will be accomplished by the following:

1. FirstNet policies will be accessible on the FirstNet Web site and designated staff will be available to advise potential applicants of existing studies or other information reasonably foreseeable for later federal action.

2. FirstNet will initiate consultation early with appropriate state, local, and tribal governments and with interested private persons and organizations when its own involvement is reasonably foreseeable.

3. FirstNet will begin the NEPA process at the earliest possible time.

(d) While it is the policy of FirstNet to thoroughly evaluate its actions in accordance with the requirements of NEPA and the CEQ regulations, certain actions may result from statutory requirements or actions by non-federal entities involving little or no control or discretion on the part of FirstNet. In the case of such actions, the FirstNet Director of Environmental Compliance and/or the NEPA Coordinator, in coordination with the FirstNet Chief Counsel, should make a determination of non-applicability of NEPA.

1.04

DEFINITIONS

This Directive incorporates all definitions and phrases as defined by CEQ in its regulations at 40 CFR part 1508. To ensure full compliance, the CEQ regulations should be consulted for comprehensive explanations of the terms. A glossary of words and phrases as used in this Directive is included in Appendix B.

1.05

PROGRAM GOALS

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

(a) Proposed actions to be undertaken by FirstNet are identified early in the planning process and brought to the attention of the Director of Environmental Compliance and/or NEPA Coordinator;

(b) Actions are evaluated to determine the appropriate applicable NEPA review (*i.e.,* Categorical Exclusion (CE), Environmental Assessment (EA), Environmental Impact Study (EIS), or a Determination of NEPA Adequacy when tiering from or adopting another Agency's environmental documentation);

(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; and

(f) The public is engaged and involved with the planning process and evaluation of environmental impacts, as appropriate.

1.06

RESPONSIBILITIES

FirstNet roles and responsibilities relating to the implementation and compliance with NEPA are as follows:

(a) The Chair of the Board (Chair). The Chair has the ultimate responsibility to fulfill FirstNet's compliance with NEPA. The Chair directs the FirstNet General Manager (GM) to (1) ensure that environmental planning is incorporated into FirstNet decision-making processes and (2) coordinate with the designated Director of Environmental Compliance and/or NEPA Coordinator for advice and guidance on proper and adequate compliance with NEPA requirements.

(b) FirstNet General Manager (GM). The GM shall:

1. Establish and oversee the proper implementation of a FirstNet NEPA compliance program in accordance with the requirements of this Directive;

2. Advise the Chair on activities that are highly controversial, are nationally significant, or require the establishment of a new FirstNet NEPA-related policy;

3. Inform the Chair of current developments in NEPA policy and implementing procedures;

4. Support early, proactive, and comprehensive coordination and outreach processes across FirstNet;

5. Appoint a Director of Environmental Compliance and/or NEPA Coordinator to carry out the responsibilities delineated below in paragraph c; and

6. Sign Records of Decision (ROD), Findings of No Significant Impact (FONSIs), Records of Environmental Consideration (REC), and memos citing Categorical Exclusions (CEs), or re-delegate this authority in writing to other FirstNet personnel, as appropriate.

(c) FirstNet Director of Environmental Compliance and/or NEPA Coordinator (Director of Environmental Compliance/NEPA Coordinator). Responsible for coordinating and overseeing FirstNet's compliance with NEPA. To accomplish this the Director of Environmental Compliance/NEPA Coordinator will:

1. Assist the Chair and GM in implementing FirstNet's compliance with NEPA;

2. Review and provide final clearance on all NEPA documents covered by this Directive;

3. Transmit, with written recommendations, NEPA documents for action to the GM or authorized designee for signature or other appropriate agency action;

4. Develop and recommend policies, procedures, and technical and administrative advice and training to facilitate and improve FirstNet's effective and efficient implementation of NEPA.

5. Provide technical and administrative advice and training to relevant stakeholders so that they are aware of, and comply with, the NEPA process and so that they consider the impacts of their programs, projects, and policies;

6. Act as liaison with the Department, CEQ, and U.S. EPA on NEPA-related matters or issues and coordinate with other federal agencies with respect to significant NEPA matters;

7. Prepare or review, as appropriate, all inter- or intra-agency reports, surveys, and comments on NEPA-related matters, including other agency NEPA documentation, or legislative proposals;

8. Consult early and often with relevant stakeholders to identify how the requirements of this Directive will be met and at a minimum:

A. Determine the applicability of NEPA and, if applicable, the appropriate NEPA review procedure (i.e., CE, EA, or EIS) and public involvement, in consultation with the Chief Counsel of FirstNet, as necessary;

B. Review and comment upon draft NEPA documents to ensure that a high-quality analysis is completed, reasonable or appropriate alternatives are identified and discussed, and that all applicable scheduling, scoping, consultation, circulation, and public involvement requirements are met;

C. Assist in consultations with other federal, state, and local regulatory and/or

resource agencies and tribal governments on draft NEPA documents to specifically include agencies having jurisdiction by law of a resource or geographic area; and

D. Otherwise act as a resource to the relevant stakeholders to ensure that the NEPA document identifies reasonably foreseeable significant impacts of the action, sufficiently analyzes the impacts, clearly presents the findings, and fairly considers reasonable or appropriate alternatives to the action.

(d) FirstNet Chief Counsel: The Chief Counsel of FirstNet shall provide all legal services regarding NEPA compliance to include:

1. Providing legal sufficiency reviews of NEPA documents, as appropriate;

2. Assisting the Chair, GM, Director of Environmental Compliance, and NEPA Coordinator in determining the applicable NEPA review for a proposed action; and

3. Assisting the Chair, GM, Director of Environmental Compliance, and NEPA Coordinator in establishing or revising this Directive and the FirstNet NEPA compliance program, as necessary.

1.07

ENVIRONMENTAL REVIEW PROCESS

The environmental review process describes the applicable CE, EA, or EIS process for a proposed FirstNet action and includes actions required by CEQ in 40 CFR parts 1500–1508 for compliance with NEPA. The process involves the following series of actions accomplished by or under the direction of the Chair of FirstNet or a delegate.

Developing the Purpose and Need

FirstNet shall ensure the purpose and need of a proposed action considers the FirstNet mission, while not unduly limiting the range of alternatives considered in accomplishing its mission. FirstNet is authorized and directed by statute to take all actions necessary to ensure the design, construction, and operation of a nationwide, interoperable PSBN based on a single, nationwide network architecture. The establishment of the nationwide PSBN meets a long-standing and critical national infrastructure need that will, for the first time, allow police officers, fire fighters, emergency medical service professionals, and other public safety officials to effectively communicate with each other across agencies and jurisdictions.

Apply NEPA Early in the Process

FirstNet shall integrate the NEPA process with other planning for the nationwide PSBN at the earliest possible time to ensure that planning and decisions reflect environmental values and in order to avoid delays or other potential conflicts later in the process. Accordingly, FirstNet shall:

(a) Identify environmental impacts and resources in adequate detail so they can be compared and evaluated 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 which could avoid, ameliorate, lessen, or provide compensation for identified impacts of the proposed action.

(d) Where the action requiring FirstNet review is by a private applicant or other non-federal entity:

1. The Director of Environmental Compliance and/or the NEPA Coordinator or other assigned FirstNet Environmental Protection Specialist will advise the applicant of FirstNet's policies and procedures for NEPA compliance and make available or direct the applicant to resources within FirstNet, the Department, or elsewhere in the federal government to facilitate the applicant's consideration of, and explanation of, environmental impacts and alternatives.

2. FirstNet will consult with appropriate state, local, and tribal governments and other relevant organizations on environmental impacts of, and alternatives to, a proposed action when its own involvement is reasonably foreseeable.

3. FirstNet will initiate its NEPA review process at the earliest practicable time.

Scoping

FirstNet shall comply with scoping procedures described in 40 CFR 1501.7 required for proposed actions normally requiring an EIS. In some, but not all, circumstances, and at the discretion of the Director of Environmental Compliance and/or the NEPA Coordinator, scoping will also be conducted on an EA. Additionally, FirstNet 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 document and review, FirstNet 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, 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 actions, 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 environmental impacts of a proposed action(s), as necessary;

Public Involvement

In carrying out its responsibilities under NEPA, FirstNet shall comply with the public involvement requirements described in 40 CFR 1506.6 and make diligent efforts to involve the public in the environmental review process. In addition, FirstNet shall:

(a) Ensure that all public notices relating to environmental matters shall 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 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 FirstNet determines will enhance public participation in the environmental process. These materials shall be placed in locations convenient for the public as determined by FirstNet.

(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 FirstNet, the need for hearings or meetings is indicated in order to develop adequate information on the environmental implications of the proposed action. Public hearings or meetings conducted by FirstNet will be coordinated to the extent practicable with other meetings, hearings, and environmental reviews which may be held or required by other federal, state, and local agencies.

General Requirements for Categorical Exclusions

FirstNet actions that do not individually or cumulatively have a significant effect on the human environment and where no extraordinary circumstances exist may be categorically excluded from further environmental review in an EA or EIS.

(a) The approved list of FirstNet actions that normally qualify for a CE are listed in Appendix C.

(b) FirstNet actions that would normally be categorically excluded from further environmental review, but due to the existence of extraordinary circumstances could have substantial environmental effects, will require the preparation of an EA or EIS.

(c) The list of extraordinary circumstances that could have substantial environmental effects is listed in Appendix D.

(d) If a proposed action is determined to be a CE and not considered a routine administrative, ministerial, procurement, or personnel action, FirstNet shall document its determination that a CE applies to a proposed action with a Memorandum to File or a Record of Environmental Consideration.

(e) The list of approved FirstNet CEs is subject to continual review and can be modified by amending/revising this Directive, in consultation with CEQ.

(f) The use of a CE does not relieve FirstNet from compliance with other statutes or consultations 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.*). Such consultations may be required to determine the applicability of the CE screening criteria.

General Requirements for an Environmental Assessment

FirstNet shall prepare an EA as defined in 40 CFR 1508.9 for an action which FirstNet

determines may have the potential for significant environmental impacts. Actions normally requiring an EA include:

(a) When a proposed action is not in a category of actions described in an available categorical exclusion and there is not enough information available to know whether the proposed action will have significant environmental impacts, an EA will be prepared. In this situation, an EA process is used to determine, through environmental impact evaluation and opportunity for public involvement, as appropriate, if the impacts on the quality of the human environment are potentially significant.

(b) A proposed action that meets categorical exclusion criteria, but that is associated with extraordinary circumstances, may require the preparation of an environmental assessment to determine if there are significant impacts associated with the action.

(c) The Chair or a delegate can decide to prepare an EA as a best practice planning tool to inform decision makers on the environmental impacts of its actions.

In preparing an EA, FirstNet shall:

(a) Involve environmental agencies, applicants, and the public to the extent practicable.

(b) Ensure the contents of an EA comply with the requirements of 40 CFR 1508.9, and shall include:

1. A detailed project description to include location and maps identifying where the proposed action is going to take place.

2. Sufficient evidence and analysis for FirstNet to determine whether to prepare a FONSI or an EIS and facilitate preparation of said EIS, if needed;

3. A brief discussion of the need for the action;

4. A brief discussion of the environmental impacts of the proposed action and alternatives; and

5. A listing of agencies and person consulted

(c) Determine, based on an independent review of the EA, whether the proposed action will have a significant environmental impact. If FirstNet determines that the proposed action will not have a significant impact, FirstNet may issue a FONSI as described in 40 CFR 1508.13. However, if, after review of the EA, FirstNet determines that the proposed action will have a significant environmental impact, FirstNet will proceed with the preparation of an EIS.

General Requirements for an Environmental Impact Statement

FirstNet 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 which 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 U.S. known to cause significant environmental effects on the global commons, such as the oceans or Antarctica, as described in E.O. 12114, Environmental Effects Abroad of Major Federal Actions.

(c) Actions required by statute or treaty to develop an EIS.

In preparing an EIS, FirstNet shall solicit public involvement and comment as described in 40 CFR 1503.1–1503.4 after preparing a draft EIS and before preparing a final EIS. FirstNet shall also ensure the contents of an EIS contain the elements described in 40 CFR 1502.10–1502.18 and, unless FirstNet determines that there is a compelling reason to do otherwise, shall follow the standard EIS format including:

1. Cover Sheet
   i. See 40 CFR 1502.11
2. Summary
   i. See 40 CFR 1502.12
3. Table of Contents
4. Purpose of and Need for Action
   i. See 40 CFR 1502.13
5. Discussion of Proposed Action and Alternatives
   i. See 40 CFR 1502.14
6. Description of the Affected Environment
   i. See 40 CFR 1502.15
7. Discussion of the Environmental Consequences of the Proposed Action
   i. See 40 CFR 1502.16
8. List of Preparers
   i. See 40 CFR 1502.17
9. List of Agencies, Organizations, and Persons Consulted
10. Index and Appendices, as appropriate

Finally, FirstNet shall prepare a concise public Record of Decision (ROD) in accordance with 40 CFR 1505.2.

Environmental Review and Consultation Requirements for NEPA Reviews

To the fullest extent possible, FirstNet shall prepare NEPA documents (*i.e.,* CE, EA, EIS) 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.*); National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*), Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); Migratory Bird Treaty Act of 1918 (16 U.S.C. 703 *et seq.);* Bald and Golden Eagle Act of 1940, 16 U.S.C. 668 *et seq.;* E.O. No. 11990, Protection of Wetlands; E.O. No. 11988, Floodplain Management; and other applicable environmental laws and Executive Orders.

Cumulative Impacts

FirstNet NEPA analyses shall assess cumulative effects, which are the impacts on the environment resulting from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions (40 CFR 1508.7).

Environmental Justice

FirstNet shall comply with E.O. 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' and determine whether the proposed action will have a disproportionately high and adverse impact on minority populations or low-income populations.

Environmental Determinations and Final Decisions

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

(a) Categorical Exclusion (CE)

1. If a proposed action is determined to be a CE and not considered a routine administrative, ministerial, or a personnel or procurement action, FirstNet shall document its determination that a CE applies to a proposed action with a memorandum to the file that states no extraordinary circumstances are present that would preclude the use of the CE.

2. For more complicated CEs, a Record of Environmental Consideration (REC) would be prepared to document the decision. A REC is a brief document that demonstrates that NEPA and other relevant laws, regulations, and EOs have been analyzed for an action that does not require an EA or EIS. A REC is kept in the administrative record and should cite the categorical exclusion used and show that the agency determined: (1) the action fits within the category of actions described in the categorical exclusions; and (2) there are no extraordinary circumstances that would preclude the project or proposed action from qualifying as a categorically excluded action.

(b) Finding of No Significant Impact (FONSI)

1. An EA results in either the issuance of FONSI or a determination to prepare an EIS. A FONSI is a document (40 CFR 1508.13) that briefly states why an action (not otherwise excluded) will not significantly affect the environment.

2. If the Chair or delegate determines, based on an independent review of the EA, that the proposed action will not have significant impact, FirstNet 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 Chair or a delegate that the proposed action will have a significant environmental impact, FirstNet will proceed with the preparation of an EIS.

(c) Record of Decision (ROD)

1. When it is determined that an EIS is required, FirstNet's final decision relating to the proposed action will 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 40 CFR 1505.2 for the final decision maker, whether the Chair or a delegate, for approval and signature.

2. If all other requirements have been met, FirstNet's implementation of the proposed action may begin immediately after the ROD is signed.

Mitigation

FirstNet, throughout the environmental review process, shall consider mitigation measures, as defined in 40 CFR 1508.20, to avoid or minimize environmental harm,

where possible. In addition, the following actions will be taken to ensure proper implementation of mitigation measures:

(a) FirstNet shall ensure a discussion of mitigation measures essential to render the impacts of the proposed action not significant is included or referenced in the FONSI and/or the ROD prior to making a final environmental determination or decision.

(b) FirstNet will not commit to mitigation measures considered or analyzed in environmental documentation if there are insufficient legal authorities, or it is not reasonable to foresee the availability of sufficient resources to perform or ensure the performance of the mitigation.

(c) Prior to and during the implementation of the action, FirstNet 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 there is remaining federal action, FirstNet may utilize an adaptive management approach and take corrective actions to identify alternatives that could take the place of original mitigation commitments and provide the intended environmental result.

Tiering

FirstNet 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, as appropriate (*see* 40 CFR 1508.28). When a Programmatic EIS has been prepared, FirstNet 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.

Supplemental Environmental Documentation

FirstNet may prepare supplements to either the draft or final environmental documentation if:

(a) FirstNet makes substantial changes in the proposed action that are relevant to environmental concerns; or

(b) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(c) FirstNet is relying upon an environmental review previously performed by another federal agency with authority over the action or related activity of an applicant, and additional analysis is needed to address the reasonably foreseeable impacts of the action under consideration by FirstNet.

Emergencies

FirstNet 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 and complying with NEPA. This section applies only if the Director of Environmental Compliance or the NEPA Coordinator, in consultation with FirstNet General Counsel, determines that an emergency exists that makes it necessary to take urgently needed actions before preparing a NEPA analysis and documentation in accordance with the provisions outlined below.

(a) FirstNet 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, FirstNet shall take into account the probable environmental consequences of these actions and mitigate foreseeable adverse environmental effects to the extent practical.

(b) The Director of Environmental Compliance, NEPA Coordinator, or designee 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 FirstNet.

(c) If the Director of Environmental Compliance or NEPA Coordinator 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 Director of Environmental Compliance, NEPA Coordinator, or designee shall document that determination in an environmental assessment and a FONSI prepared in accordance with this part, unless categorically excluded. If the Director of Environmental Compliance or NEPA Coordinator 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 Director of Environmental Compliance or NEPA Coordinator shall consult with the FirstNet Chief Counsel about alternative arrangements for NEPA compliance. The Director of Environmental Compliance, the NEPA Coordinator, or designee may grant an alternative arrangement. Any alternative arrangement must be documented and notice of its use provided to CEQ.

(d) The Director of Environmental Compliance or NEPA Coordinator shall consult with CEQ about alternative arrangements as soon as possible if FirstNet 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 part.

1.08

EFFECTIVE DATE

The effective date for the FirstNet NEPA implementation procedures is April 29, 2014.

Appendix A

LIST OF AUTHORITIES

(a) Statutes and Regulations that should be considered during the development of a NEPA review should include:

1. National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*
2. CEQ Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, as codified at 40 CFR parts 1500—1508.
3. Endangered Species Act of 1973, 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 of 1966, 16 U.S.C. 470 *et seq.*
6. Migratory Bird Treaty Act of 1918, 16 U.S.C. 703 *et seq.*
7. Bald and Golden Eagle Act of 1940, 16 U.S.C. 668 *et seq.*
8. Clean Air Act of 1970, 42 U.S.C. 7401 *et seq.*
9. Clean Water Act, 33 U.S.C. 1251 *et seq.*
10. Coastal Zone Management Act of 1972, 16 U.S.C. 1451 *et seq.*
11. Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271 *et seq.*
12. Marine Mammal Protection Act of 1972, 16 U.S.C. 31 *et seq.*
13. River and Harbors Act of 1899, 33 U.S.C. 401 and 403.

(b) Executive Orders that should be considered during the development of a NEPA review should include:

1. E.O. 11988, Floodplain Management.
2. E.O. 12114, Environmental Effects Abroad of Major Federal Actions.
3. E.O. 11990, Protection of Wetlands.
4. E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.
5. E.O. 13112, Invasive Species.
6. E.O. 13175, Consultation and Coordination with Indian Tribal Governments.
7. E.O. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds.

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

1. ''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).
2. ''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).
3. ''Memorandum for Heads of Federal Departments and Agencies: Establishing, Applying, and Revising Categorical Exclusions Under the National Environmental Policy Act'' (CEQ, 2010).
4. ''Memorandum for Heads of Federal Departments and Agencies: Emergencies and the National Environmental Policy Act'' (CEQ, 2010).
5. ''Aligning National Environmental Policy Act Processes with Environmental Management Systems'' (CEQ/NEPA Task Force, 2007).
6. ''Collaboration in NEPA: A Handbook for NEPA Practitioners'' (CEQ/NEPA Task Force, 2007).
7. ''Memorandum for Federal NEPA Contacts: Emergency Actions and NEPA'' (CEQ, 2005).

8. ''Memorandum for Federal NEPA Contacts: Emergency Actions and NEPA, Appendix 2: Preparing Focused, Concise and Timely Environmental Assessments'' (CEQ, 2005).
9. ''Guidance on the Consideration of Past Actions in Cumulative Effects Analysis'' (CEQ, 2005).
10. ''Modernizing NEPA Implementation'' (CEQ/NEPA Task Force, 2003).
11. ''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).
12. ''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).
13. ''Considering Cumulative Effects Under the National Environmental Policy Act'' (CEQ, 1997).
14. ''Environmental Justice: Guidance Under the National Environmental Policy Act'' (CEQ, 1997).
15. ''CEQ Guidance on NEPA Analyses for Transboundary Impacts'' (CEQ, 1997).
16. ''Memorandum to Heads of Federal Departments and Agencies Regarding Pollution Prevention and the National Environmental Policy Act'' (CEQ, 1993).
17. ''Incorporating Biodiversity Considerations into Environmental Impact Analysis Under the National Environmental Policy Act'' (CEQ, 1993).
18. ''CEQ Guidance Regarding NEPA Regulations'' (CEQ, 1983).
19. ''Forty Most Asked Questions Concerning CEQ's NEPA Regulations'' (CEQ, 1981).
20. ''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).
21. ''Environmental Effects Abroad of Major Federal Actions, Executive Order 12114; Implementing and Explanatory Documents'' (CEQ, 1979).
22. ''CEQ Memorandum for Heads of Agencies: Implementation of Executive Order 11988 on Floodplain Management and Executive Order 11990 on Protection of Wetlands'' (CEQ, 1978).
23. ''Environmental Review Pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974 and its Relationship to NEPA'' (CEQ, 1976).

Appendix B

GLOSSARY

All terminology and definitions contained in 40 CFR parts 1500–1508 are incorporated into this Directive. The following definitions are provided for other terms and phrases used.

(a) *Applicant.* Any party who may apply to FirstNet for a Federal permit, funding, or other approval or any party proposing such an action. Any application should be accompanied by an explanation of the expected or reasonably foreseeable environmental impacts, identify, as appropriate, alternatives to the action and provide supporting documentation. Depending on the program, the applicant can be an individual, a private organization, or a Federal, state, tribal, or territorial government body.

(b) *Chair of the Board.* Member of the FirstNet Board selected by the Secretary of Commerce to serve as Chair of the Board for FirstNet.

(c) *Council on Environmental Quality (CEQ).* Organization within the Executive Office of the President charged with monitoring progress toward achieving the national environmental goals as 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 or approved checklist) prepared by the Director of Environmental Compliance or NEPA Coordinator detailing the rationale for adopting another agency's environmental analysis or documentation when that analysis or documentation is used to address FirstNet's NEPA requirements.

(e) *Director of Environmental Compliance.* Individual responsible for managing the environmental program for FirstNet to include the NEPA program. The NEPA Coordinator reports to this position.

(f) *Environmental Impact Statement (EIS).* A detailed written statement prepared by an agency if a proposed action significantly impacts the quality of the human environment. The decision to prepare an EIS is based on the agency's determination that the potential impacts are significant or the results of an EA indicate significant impacts. An EIS should include discussions of the purpose of and need for the action, alternatives, the affected environment, the environmental consequences of the proposed action, lists of preparers, agencies involved, response to any public comments received, organizations and persons to whom the statement is sent, an index, and an appendix (if any). An EIS is prepared in two stages: a draft and a final. Either stage of an EIS may be supplemented.

(g) *Environmental Review.* This term refers to the NEPA process which includes: 1) identifying and scoping issues related to the proposed action; 2) determining the necessary steps for NEPA compliance and preparing the NEPA review (CE, EA, EIS, or Determination of NEPA Adequacy); and 3) making decisions that are based on understanding the environmental consequences of the proposed action.

(h) *Finding of No Significant Impact (FONSI).* A short NEPA document that presents the reasons why an action will not have a significant impact on the quality of the human environment and, therefore, will not require the preparation of an EIS. A FONSI must be supported by an EA, and must include, summarize, attach or incorporate by reference the EA. (40 CFR 1508.13).

(i) *FirstNet General Manager.* Individual responsible for implementing the policies and strategies approved by the FirstNet Board, and overseeing all of the day-to-day operations of FirstNet.

(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 FirstNet's compliance with NEPA.

(l) *NEPA Document.* An EA, FONSI, draft, supplemental draft, or final EIS, Record of Decision (ROD), Determination of NEPA Adequacy, Record of Environmental Consideration, or memorandum documenting the application of a CE.

(m) *Project.* A Federal action such as a grant, contract, loan, loan guarantee, vessel capacity reduction program, land acquisition, construction project, license, permit, modification, regulation, or research program for which FirstNet has actual control and responsibility.

(n) *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, the environmentally preferable alternative(s), factors considered in the agency decision, mitigation measures that will be implemented, and whether the practicable means to avoid or minimize environmental harm have been adopted (40 CFR 1505.2).

(o) *Record of Environmental Consideration (REC).* A REC is a brief document that demonstrates that NEPA and other relevant laws, regulations, and EOs have been analyzed for an action that does not require an EA or EIS. A REC is kept in the administrative record and should cite the categorical exclusion used and show that the agency determined: (1) the action fits within the category of actions described in the categorical exclusions; and (2) there are no extraordinary circumstances that would preclude the project or proposed action from qualifying as a categorically excluded action.

(p) *Supplemental Environmental Documents.* A document prepared to amend an original NEPA 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 (40 CFR 1502.9(c)).

Appendix C

CATEGORICAL EXCLUSIONS

A.1: The issuance of bulletins and information publications that do not concern environmental matters or substantial facility design, construction, or maintenance practices.

A.2: Procurement activities related to the day-to-day operation of FirstNet, including routine procurement of goods or services.

A.3: Personnel and Administrative Actions.

A.4: Purchase of existing facilities or a portion thereof where use or operation will remain unchanged.

A.5: Internal modifications or equipment additions (*e.g.,* computer facilities, relocating interior walls) to structures or buildings.

A.6: Construction of buried and aerial telecommunications lines, cables, and related facilities.

A.7: Construction of wireless telecommunications facilities involving no more than five acres (2 hectares) of physical disturbance at any single site.

A.8: Construction of cooperative or company headquarters, maintenance facilities, or other buildings involving no more than 10 acres (4 hectares) of physical disturbance or fenced property.

A.9: 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.

A.10: Changes or additions to existing substations, switching stations, telecommunications switching or multiplexing centers, or external changes to buildings or small structures requiring one acre (0.4 hectare) or more but no more than five acres (2 hectares) of new physically disturbed land or fenced property.

A.11: Construction of substations, switching stations, or telecommunications switching or multiplexing centers requiring no more than five acres (2 hectares) of new physically disturbed land or fenced property.

A.12: Changes or additions to wireless 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).

A.13: Ordinary maintenance or replacement of equipment or small structures (*e.g.,* line support structures, line transformers, microwave facilities, telecommunications remote switching and multiplexing sites).

A.14: The construction of telecommunications facilities within the fenced area of an existing substation, switching station, or within the boundaries of an existing electric generating facility site.

A.15: Testing or monitoring work (*e.g.,* soil or rock core sampling, monitoring wells, air monitoring).

A.16: Studies and engineering undertaken to define proposed actions or alternatives sufficiently so that environmental effects can be assessed.

A.17: 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.

A.18: Phase or voltage conversions, reconductoring or upgrading of existing electric distribution lines, or telecommunication facilities.

A.19: Construction of standby diesel electric generators (one megawatt or less total capacity) and associated facilities, for the primary purpose of providing emergency power at an existing applicant headquarters or district office, telecommunications switching or multiplexing site, or at an industrial, commercial, or agricultural facility served by the applicant.

Appendix D

EXTRAORDINARY CIRCUMSTANCES

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

(a) Reasonable likelihood of significant impact on public health or safety.

(b) Reasonable likelihood of significant environmental effects (direct, indirect, and cumulative)

(c) Reasonable likelihood of effects on the environment that are highly uncertain, unique, or are scientifically controversial.

(d) Reasonable likelihood of violating any federal, state, or local law or requirements imposed for the protection of the environment.

(e) Reasonable likelihood of adversely affecting ''environmentally sensitive'' resources, unless the impact has been resolved through another environmental process (*e.g.,* Coastal Zone Management Act, Clean Air Act, Clean Water Act).

Environmentally sensitive resources may include:

1. Proposed or federally listed threatened or endangered species, or their designated critical habitat (including species and habitat listed under the Endangered Species Act of 1973 (16 U.S.C. § 1531 *et seq.*); Migratory Bird Treaty Act of 1918 (16 U.S.C. § 703 *et seq.)* and Bald and Golden Eagle Act of 1940, (16 U.S.C. § 668 *et seq.).*

2. Areas having special designation or recognition such as prime or unique or agricultural lands; designated wilderness or wilderness study areas; wild and scenic rivers; 100-year or 500-year floodplains; wetlands; sole source aquifers (potential sources of drinking water); National Wildlife Refuges; National Parks; areas of critical environmental concern; or other areas of high environmental sensitivity.

(f) Reasonable likelihood of adversely impacting water quality, sole source aquifers, public water supply systems, or state, local, or tribal water quality standards established under the Clean Water Act and the Safe Drinking Water Act.

(g) Reasonable likelihood of effects on the quality of the environment that are highly controversial on environmental grounds. The term ''controversial'' means a substantial dispute exists as to the size, nature, or effect of the proposed action rather than to the existence of opposition to a proposed action, the effect of which is relatively undisputed.

(h) Reasonable likelihood of a disproportionately high and adverse effect on low income populations or minority populations.

(i) Limited access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites.

(j) A greater scope or size than is normal for this category of action.

(k) Reasonable likelihood of degrading already existing poor environmental conditions. Also, initiation of a degrading influence, activity, or effect in areas not already significantly modified from their natural condition.

(l) Introduction or employment of unproven technology.

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BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2012–OS–0061]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by May 29, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Impact of ChallenGe on Participants' Noncognitive Skills; OMB Control Number 0794–TBD.

Type of Request: New.

Number of Respondents: 1,200.

Responses Per Respondent: 1.667.

Annual Responses: 2,000.

Average Burden Per Response: 10 minutes.

Annual Burden Hours: 334.

Needs and Uses: The information collection requirement is necessary to obtain data on the noncognitive skills of National Guard Youth ChalleNGe program participants at the beginning and the end of their participation in the program. The data will be used by DoD to evaluate whether the ChalleNGe program positively impacts participants' noncognitive skills. The data will also be used to determine whether there are program-specific differences in terms of the impact.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method: