

ALERT

FirstNet Releases Final NEPA Compliance Policies and Procedures

April 30, 2014

On April 29, 2014, the First Responder Network Authority (FirstNet) published two notices related to its compliance with the National Environmental Policy Act (NEPA): one describing its NEPA implementation procedures (Implementation Procedures Notice), and another detailing the categorical exclusions FirstNet identified for actions it has concluded do not require further environmental assessment (Categorical Exclusions Notice). FirstNet stated that the procedures and policies adopted in both documents became effective April 29, 2014.

The NEPA requires all federal agencies to undertake an assessment of environmental effects of their proposed actions prior to making a final decision and implementing the action. Where the environmental assessment finds an action may significantly impact the quality of the human environment, the agency must prepare an environmental impact statement addressing the effect of the action on the environment, alternatives, and options for mitigation. Federal regulations require agencies to adopt their own NEPA implementation procedures, and to establish and use “categorical exclusions” to define categories of actions that do not individually or cumulatively have a significant effect on the human environment, and which therefore do not require preparation of an environmental assessment or an environmental impact statement.

FirstNet sought comment on its proposed NEPA implementation policies and categorical exclusions in January 2014. Five parties submitted comments on the January 2014 notices. The comments on the Implementation Notice and the comments on the Categorical Exclusions Notice are publicly available online. Both notices provide a discussion of NEPA, a summary of the comments received on

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FirstNet's proposals, and FirstNet's reactions to those comments.

The Implementation Procedures Notice sets out the internal procedures FirstNet will follow in executing its NEPA obligations. The Notice outlines the NEPA roles and responsibilities of various FirstNet officials, including a new position of Director of Environmental Compliance and/or NEPA Coordinator, which will be appointed by the FirstNet General Manager. The Notice then describes the Environmental Review procedures, including the solicitation of public involvement, the preparation of an Environmental Assessment, and, where necessary, Environmental Impact statement, the application of categorical exclusions, and the consideration of mitigation measures. The Notice also contains provisions enabling FirstNet to take actions on an emergency basis where there is no time for a full environmental assessment. FirstNet underscored its commitment to identifying proposed actions and considering NEPA early in the process, and working closely with other Federal Agencies.

The Categorical Exclusions Notice provides additional detail on the 19 categorical exclusions FirstNet identified that cover actions unlikely to have a significant economic impact. As proposed in FirstNet's January 2014 Notice, the categorical exclusions are similar to those the National Telecommunications and Information Administration used in executing the Broadband Technology Opportunities Program. The categorical exclusions include a wide range of FirstNet activities, including many types of facilities construction, modification, and collocation.