under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 24, 2025.

Kevin McOmber,

Regional Administrator, Region 4.

[FR Doc. 2025–15748 Filed 8–18–25; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 25–217; FCC 25–47; FR ID 309129]

Modernizing the Commission's National Environmental Policy Act Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (the FCC or Commission) seeks comment on how the Commission should revise its rules to streamline the environmental review process and promote efficiency and certainty for Commission applicants to encourage deployment of infrastructure, which in turn will result in more competition and technological innovation in the marketplace.

DATES: Comments are due September 18, 2025; reply Comments are due October 3, 2025.

ADDRESSES: You may submit comments, identified by WT Docket No. 25–217, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
- Hand-delivered or messenger delivered paper filings for the Commission's Secretary are accepted between 8 a.m. and 4 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

FOR FURTHER INFORMATION CONTACT: Jennifer Flynn, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, (202) 418–0612, *Jennifer.Flynn@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), in WT Docket No. 25–217; FCC 25–47, adopted on August 7, 2025, and released on August 14, 2025. The full text of this document is available at *https://docs.fcc.gov/public/attachments/FCC-25-47A1.pdf.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998), *https://www.govinfo.gov/content/pkg/FR-1998-05-01/pdf/98-10310.pdf.*

The Commission will treat this proceeding as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Synopsis

I. Introduction

In this Notice of Proposed Rulemaking (NPRM), we take a fresh look at our environmental rules to account for recent amendments to the National Environmental Policy Act (NEPA) under the 2023 Fiscal

Responsibility Act (FRA). In addition, in January, President Trump issued Executive Order (E.O.) 14154 titled ''Unleashing American Energy,'' which called upon ''all agencies [to] prioritize efficiency and certainty over any other objectives'' in revising agency regulations implementing NEPA. In light of the changes to the legal landscape and consistent with the objectives of that Executive Order, we seek comment on how we should revise our rules to streamline the environmental review process, promote efficiency, and encourage deployment of infrastructure that results in more competition and technological innovation.

We also take this opportunity to seek comment on whether there are parts of our environmental rules that are now unnecessary or outdated and should be deleted. Given the Commission's environmental rules are entwined with our historic preservation rules, we also seek comment on any impact to our National Historic Preservation Act framework and examine what rule changes, if any, might be appropriate. This rulemaking is a continuation of the Commission's efforts to undertake a wholesale review of all of the agency's regulations.

II. Background

A. NEPA and Related CEQ Regulations

NEPA was signed into law on January 1, 1970. NEPA requires federal agencies to determine whether any proposed Major Federal Actions (MFAs) will significantly affect the quality of the human environment and, if so, to assess those environmental impacts. The statute created the Council on Environmental Quality (CEQ), which assists with NEPA implementation across the federal government. Federal agencies issue their own NEPA implementing procedures in consultation with CEQ. This notice describes the FCC's NEPA procedures. Per the statute, after determining whether their proposed actions are MFAs and subject to NEPA, including the threshold considerations in section 106 of NEPA, an agency will determine the appropriate level of review. In general, agencies consult available categorical exclusions (CEs), which are actions the agency has determined normally do not have significant effects on the human environment, as an initial step in determining the appropriate level of review. MFAs not subject to a CE typically require preparation of an environmental assessment (EA) or an environmental impact statement (EIS), depending on the likelihood of significant effects. Historically, CEQ has issued guidance and formal NEPA rules that other agencies—including the Commission—would adopt or borrow. Until recently, CEQ's NEPA rules were considered binding on federal agencies. CEQ recently rescinded its regulations but continues to provide guidance to agencies on how to implement NEPA and consults with agencies on the development of their NEPA implementing procedures pursuant to NEPA section 102(2)(B) and the President's direction in E.O. 14154.

Recent developments from Congress and the Executive Branch have significantly altered NEPA's framework. These developments, principally intended to bolster U.S. leadership by accelerating the cadence and clip of domestic infrastructure projects, require federal agencies like the Commission to reexamine their NEPA rules and procedures.

First, NEPA was amended substantially in June 2023 with the FRA's passage. Of particular importance, NEPA was amended to define an MFA as an action ''subject to substantial Federal control and responsibility'' as determined by the agency. The legislation also codifies exclusions from the definition of MFA. The amended NEPA also codifies various aspects of the environmental review process, including CEs, EAs, and EISs.

In January 2025, President Trump issued E.O. 14154 titled ''Unleashing American Energy'' on his first day in office. Among other things, E.O. 14154 rescinded Executive Order 11991 requiring CEQ to issue regulations to federal agencies for the implementation of the procedural provisions of NEPA. In addition, section 5(b) of E.O. 14154 directs CEQ to provide guidance on implementing NEPA to expedite and simplify the permitting process and further to propose rescinding CEQ's NEPA regulations found at 40 CFR 1500, *et seq.* Section 5(c) of the E.O. calls for the guidance and any resulting agency NEPA implementing regulations to ''expedite permitting approvals and meet deadlines established in the [FRA].'' Further, section 5(c) calls upon ''all agencies [to] prioritize efficiency and certainty over any other objectives, including those of activist groups, that do not align with the policy goals set forth in section 2 of this order or that could otherwise add delays and ambiguity to the permitting process.''

Following E.O. 14154, CEQ issued a guidance memorandum on February 19, 2025, advising the heads of federal departments and agencies to complete the revision of their NEPA procedures by February 19, 2026 (*i.e.,* within 12 months of the issuance date of the CEQ Guidance Memo). The CEQ Guidance Memo encourages federal agencies to use the final rules that CEQ adopted in 2020 as an initial framework for the development of revisions to federal agency NEPA rules and directs agencies to provide a minimum of 30 days but no longer than 60 days for public comment on proposed NEPA regulations, to the extent that public comment is required.

In response to E.O. 14154, CEQ on February 25, 2025, issued an interim final rule removing the 2024 CEQ regulations from the Code of Federal Regulations (CFR), with an associated request for comment. CEQ's Interim Final Rule states that after the CEQ rules are removed from the CFR agencies will remain free to use or amend their own NEPA procedures, and expressed its view that agencies, in defending actions they have taken, should continue to rely on the version of CEQ's regulations that was in effect at the time that the agency action under challenge was completed.

Most recently, the Supreme Court confirmed that ''NEPA is a procedural cross-check, not a substantive roadblock. The goal of the law is to inform agency decisionmaking, not to paralyze it.'' The Court recognized that agencies implementing NEPA make ''fact-dependent, context-specific, and policy-laden choices about the depth and breadth of its inquiry'' within ''a broad zone of reasonableness.'' The Court further observed that an agency's NEPA obligations were confined to the project before it; when the environmental effects of an agency action arise from a project separate from the one under NEPA review by virtue of temporal or geographic distance, ''NEPA does not require the agency to evaluate the effects of that separate project.'' And the Court clarified that ''[t]he analysis in [its] opinion [] applies to NEPA as amended by'' the FRA.

B. The Commission's Current Environmental Rules

The Commission's current environmental rules establish the process by which entities constructing facilities to support Commission-licensed or -authorized services take measures to consider environmental and historic resources. These rules were designed to bring the Commission into compliance with NEPA, among other statutory obligations.

The Commission meets its NEPA obligations through its regulations which impose enforceable duties on its licensees, applicants, and registrants, such as commercial licensees, utilities, public safety entities, railroads, and

mining companies, and relies upon those entities to make the initial evaluation of potential environmental effects. Tower owners that are neither licensees nor applicants must also follow these rules if they intend their towers to host antennas supporting Commission-licensed service.

The Commission's NEPA rules currently contain an overarching CE framework by which Commission actions generally ''are deemed individually and cumulatively to have no significant effect on the quality of the human environment and are categorically excluded from environmental processing.'' The regulation contains limited exceptions, consisting of extraordinary circumstances (some of which are enumerated in a NEPA Checklist), under which additional environmental processing is required. This broad CE applies to both new actions as well as minor and major modifications to existing or authorized facilities and equipment. If one of the enumerated exceptions to the overarching CE is present, then applicants are generally required to prepare an EA. The Commission's rules also require the preparation of an EA if an interested person files a written petition alleging that a particular action, otherwise categorically excluded, will have a significant environmental effect and the responsible Bureau determines that the action may have a significant environmental impact. In addition, the Commission's rules require the preparation of an EA if the responsible Bureau determines on its own motion that a particular action, otherwise categorically excluded, may have a significant environmental impact.

When an applicant submits an EA, the Commission reviews the EA and makes an independent finding as to whether the proposed action will or will not have a significant environmental effect requiring additional environmental processing in the form of an EIS. If the responsible Bureau or the Commission determines that the proposal will have a significant environmental impact upon the quality of the human environment, it will so inform the applicant, and the applicant will have an opportunity to amend its application so as to reduce, minimize, or eliminate environmental problems. If the responsible Bureau or the Commission determines that the proposal will not have a significant impact, it will make a finding of no significant impact (FONSI). After the issuance of a FONSI, the application will be processed. For a proposed action for which an EA has been submitted to be implemented, the Commission must first issue a FONSI. The Commission's rules require the applicant to provide local public notice of the FONSI ''[p]ursuant to CEQ regulations'' after it is issued. If, after reviewing a submitted EA, the responsible Bureau determines that the proposed action will have a significant effect upon the environment and that the matter has not been resolved by an application amendment, the rules provide that the Bureau will prepare a draft EIS and a Final EIS.

The Commission's rules related to historic preservation are located in §§ 1.1307(a)(4) and 1.1320 of the Commission's current environmental rules. These provisions implement section 106 of the National Historic Preservation Act of 1966 (NHPA), which requires federal agencies to consider the effects of federal undertakings on historic properties. Section 106 of NHPA mandates historic preservation review for ''undertakings.'' The Commission has previously determined, and the D.C. Circuit affirmed, that wireless facility deployments associated with geographic area licenses may constitute ''undertakings'' in two limited contexts: (1) where facilities are subject to the FCC's tower registration and approval process pursuant to section 303(q) of the Communications Act because they are over 200 feet or are near airports, or (2) where facilities not otherwise subject to preconstruction Commission authorization are subject to § 1.1312(b) of the Commission's rules and thus must obtain FCC approval of an environmental assessment prior to construction. Under that precedent, the Commission currently treats the construction of communications towers and the collocation of communications equipment using Commission-licensed spectrum as federal undertakings subject to section 106 review.

Finally, the Commission's Antenna Structure Registration (ASR) rules can be found in part 17 of the Commission's regulations. These rules contain environmental notification provisions, which must be completed by all ASR applicants unless an exception applies or a waiver is granted. The environmental notification process applies to new tower registrations and to certain modifications of registered towers that may have a significant environmental effect. Under the ASR rules, interested persons may submit a request for further environmental review alleging that the proposed facility or modification may have a significant environmental effect within 30 days of the national notice date. The responsible Bureau will issue a decision as to whether further environmental processing in the form of an EA to be submitted by the applicant is required. If an EA is required, the responsible Bureau will review the EA and, if the responsible Bureau determines there will be a significant environmental effect, give the applicant an opportunity to amend its application so as to reduce, minimize, or eliminate environmental problems and then determine whether to issue a FONSI or advise the applicant that an EIS is required.

On March 27, 2025, CTIA—The Wireless Association (CTIA) filed a Petition for Rulemaking requesting that the Commission update its rules implementing NEPA. Specifically, CTIA requests that the Commission update and streamline the Commission's NEPA rules in part 1, subpart I, to facilitate wireless broadband deployment across the country. In particular, CTIA requests that the Commission revise its rules to provide that wireless facility deployments pursuant to a geographic area license that do not require antenna structure registration are not MFAs under NEPA. CTIA also asks that the Commission implement other reasonable reforms to the Commission's NEPA procedures consistent with statutory mandates, recent Presidential directives, and actions by CEQ—including by ensuring that any facilities that remain governed by NEPA are subject to a review process with clear timelines and predictable standards. On March 31, 2025, the Commission sought comment on the petition.

Industry commenters, including service providers AT&T Services, Inc. (AT&T), T-Mobile USA, Inc. (T-Mobile), and Verizon, trade associations, and other business-related entities, support CTIA's Petition generally and in particular CTIA's position that the Commission should find that non-ASR facilities deployed pursuant to geographic licenses are neither MFAs under NEPA nor undertakings for purposes of the NHPA. To the extent industry commenters address other reforms to the Commission's NEPA rules, they generally support CTIA's proposals to streamline the Commission's EA and relevant ASR procedures, including codifying deadlines. In contrast, other commenters oppose CTIA's proposal that the Commission should determine that non-ASR facilities deployed pursuant to geographic licenses are not MFAS. Additionally, several Tribal Nations, state historic preservation officers and organizations, and other associations advocating the interests of either Tribal Nations or historic preservation officers and preservation professionals, oppose CTIA's proposals.

Although a number of these commenters express a willingness to engage in efforts to modify the section 106 process, they object to the approaches advocated by CTIA.

III. Discussion

We believe the time is ripe to take a fresh look at the Commission's environmental review procedures to comport with NEPA, accelerate the federal permitting process, further a national priority of faster and more infrastructure deployment, and ensure that our rules are clear. We seek comment generally on the implications to the Commission's environmental review procedures of the NEPA amendments, CEQ's repeal of its NEPA rules, E.O. 14154, and other relevant developments, including the Supreme Court's decision in *Seven County Infrastructure.* Among all other relevant issues, we seek comment on whether any legitimate reliance interests might be adversely impacted by a revision to the Commission's environmental review procedures.

Accordingly, this NPRM proceeds as follows. First, we review our current environmental rules and seek comment on ways to modernize them consistent with NEPA's best reading and the Commission's policy of modernizing communications networks and simplifying government operations. Then, we consider the impact of recent changes to NEPA as they pertain to NHPA, ASR, and other related laws applicable to the Commission's actions. Finally, we seek comment on other aspects of our NEPA rules, including the FCC's requirements for CEs, EAs, EISs, joint agency actions, and emergency situations. In this section, we seek comment on whether certain Commission actions are MFAs. Irrespective of that determination, we seek comment generally on whether the Commission, as a matter of policy, should add these actions to the Commission's list of categorical exclusions in § 1.1306. If the Commission determines these actions are categorically excluded, are there extraordinary circumstances that apply which might require further environmental review? Overall, would these findings respect the goals of NEPA and NHPA, while balancing the Administration's efficiency goals?

A. Review of Commission Actions Subject to Environmental Review

1. Application of ''Major Federal Action'' to the Commission's Rules

We first take a fresh look at the Commission's rules in light of recent changes to NEPA. We seek comment on what changes, if any, would bring our environmental regulations in line with the best reading of the MFA definition and its enumerated exceptions. In addition to the specific issues discussed below, we also seek comment broadly on the arguments raised by the CTIA Petition regarding the interplay between the statutory text of NEPA and possible revisions to the Commission's environmental rules and procedures.

As an initial matter, we propose to codify the meaning of MFA, as described in NEPA, and its exceptions, which are currently undefined in the Commission's rules. The Commission has traditionally borrowed from relevant definitions promulgated by CEQ. In light of CEQ's recission of its NEPA regulations, we believe codifying the contours of MFA would give the public necessary clarity about their regulatory obligations. We have generally treated our licensing activities as presumptively MFAs; then such MFAs are categorically excluded unless an extraordinary circumstance exists as defined in our rules and then an EA is required. In light of the amended NEPA statute, we seek comment on adjusting this approach to first consider whether an action is an MFA. If a proposed action is an MFA, we next would determine whether a CE would apply. As part of this consideration, we seek comment on whether to retain the Commission's current approach of applying a broad CE, or whether we should adjust our CE framework to list specific MFAs that would be categorically excluded. Would such changes best reflect the intent and design of the amended NEPA? If so, how should we revise our rules? If the Commission ultimately finds that certain categories of proposed actions do not constitute MFAs, the Commission would revise its NEPA procedures accordingly, and we seek comment on how we should do so, both generally and for specific actions.

Excluded from the newly codified definition of MFA are ''non-Federal actions'' with ''no or minimal Federal funding.'' We propose to implement this exclusion by finding that no MFA exists if Commission funding is not expressly directed towards the construction of the particular communications facility in question; in other words, Commission funding must be conditioned explicitly on the facility's construction rather than more generally directed toward, say, overall operator expenses. We seek comment on this proposal. Would such a finding respect the goals of NEPA and NHPA, while balancing the Administration's efficiency goals?

Geographic area licenses. We seek comment on whether the Commission should treat the issuance of geographic area licenses as MFAs. In the *Wireless Broadband Deployment Second R&O,* the Commission determined that geographic area wireless licenses are insufficient to trigger NEPA review. On appeal, the D.C. Circuit did not reach the merits of that conclusion and the Commission has not revisited those determinations since. Consequently, we seek comment on that prior analysis as it relates to our consideration of these issues here.

We also seek comment on whether deployments pursuant to geographic area licenses involve the requisite federal nexus—whether under the MFA definition (''substantial federal control and responsibility'') or the relevant non-federal exclusion (''no or minimal Federal involvement where a Federal agency cannot control the outcome of the project''). Does the Commission's issuance of a license authorizing the provision of wireless service in a geographic area create substantial federal control and responsibility over wireless facilities deployed in connection with that license, or is the issuance of a license to transmit radio signals within a geographic area ''an insufficient connection to cause the *construction* of *individual facilities* to constitute an MFA,'' as CTIA argues—particularly in instances where no further federal agency action is required prior to construction? We tentatively conclude that the Commission must exercise sufficient control over the specific deployment actions at issue, rather than generalized control *qua* regulator. We seek comment on that tentative conclusion. Either way, is the Commission's role too limited to render the deployment of such facilities an MFA? Are there instances where a geographic area wireless license constitutes an MFA?

What factors should the Commission consider in determining the scope of whether issuing geographic area licenses constitutes an MFA? The Commission generally does not impose an affirmative, freestanding requirement—whether by regulation or government contract—for private entities to build towers. Likewise, geographic area licensees are not required to obtain construction permits prior to deploying facilities. On the other hand, the Commission has adopted rules subjecting certain licensees to minimum buildout and coverage requirements. Do these buildout requirements, and the Commission's ability to enforce them, give the Commission substantial control

and responsibility over the deployment of the facilities needed to provide service pursuant to geographic area licenses? Are there instances where action pursuant to fulfilling the buildout requirements of a geographic area license brings the project within the meaning of an MFA and thus subject to environmental review? We specifically invite comment on the practical experiences of licensees regarding their deployment of facilities and the extent to which the practical details of those deployments were constrained by buildout requirements.

We also seek comment on how the statutory exclusions from the definition of major federal action might apply in the wireless licensing context. For example, we seek comment on the relevance of the MFA exclusion for ''judicial or administrative civil or criminal enforcement actions.'' Does this exclusion mean that minimum build-out and coverage requirements should not be considered sufficient to trigger NEPA, as CTIA suggests? We seek comment on whether that exclusion removes a potential factor when considering whether the Commission exercises substantial control and responsibility over geographic area licenses. Alternatively, does the fact that buildout requirements do not specify where a licensee must locate its facilities suggest that the Commission lacks substantial control and responsibility? Even if one assumed *arguendo* that the buildout requirements for geographic-based licenses give the Commission substantial control and responsibility over the deployment of the facilities, does that change once the licensee's buildout conditions are satisfied? If a geographic area licensee completes the buildout required under its license but subsequently decides to deploy additional wireless facilities to enhance its coverage, is there still substantial control and responsibility that would render the construction of those facilities an MFA? What factors suggest that the Commission has substantial control and responsibility over such actions? Alternatively, what factors suggest that the Commission lacks substantial control and responsibility? For example, does it matter whether future facilities deployment was reasonably foreseeable? Would the conclusion change if the Commission were to direct a licensee to deploy wireless facilities, finish construction by a date certain, build a specific number of facilities, or construct the facilities at a specific location?

If we determine that the issuance of geographic area licenses does not qualify as an MFA, we propose to rescind § 1.1312 because it is no longer necessary and seek comment on this proposal. Commenters arguing otherwise should identify statutory authority to retain § 1.1312 in some form and explain why the rule would be justified as an exercise of any such statutory authority. If parts of § 1.1312 should be retained, we seek comment on whether we should consolidate certain or all of its provisions into another rule?

Site-based licenses. In contrast to geographic area licenses, site-based licenses authorize the operation and construction of a facility at a specific location. For example, private parties constructing broadcast facilities are required to obtain construction permits from the Commission prior to beginning construction. Should the Commission's issuance of a site-based license qualify as an MFA under NEPA? We seek comment on how the statutory definition of an MFA, including the associated exclusions, apply to this type of FCC licensing. Does this type of licensing involve substantial federal control and responsibility because the Commission has broad discretion to authorize the construction of specific facilities at a specific location in connection with such licenses, or are additional indicia of federal control and responsibility needed to determine that site-based licensing is an MFA? How should the Commission view the construction of facilities that serve both site-based and geographic area licensees or licensing frameworks—such as the Commission's part 26 rules for commercial space launches—that have geographic and site-based attributes? Should the Commission's determination depend on the extent that a mixed-use facility primarily enables the use of spectrum licensed on a geographic area basis, as opposed to supporting the use of spectrum issued under a site-based license?

Earth station licensing. Our current rules for implementing NEPA do not include any provisions specific to satellite networks. The earth stations used in those networks, like any terrestrial radio station, can have environmental effects at or near the Earth's surface, and are subject to environmental processing under the extraordinary circumstances to the current categorical exclusion regulation. The types of earth station facilities vary, with some types of earth stations having characteristics similar to geographic area licenses for terrestrial services, and others with characteristics similar to site-specific licenses for terrestrial services. Specifically, some earth stations are ''blanket licensed'' for technically identical equipment, such as mobile terminals or end user fixed earth stations, without specifying any location at which individual earth stations must operate, other than a geographic area (typically, national and/or for mobile terminals a broad oceanic area). Blanket licensed earth stations must also be certified under the equipment certification procedures in part 2, subpart J of the Commission's rules if the stations radiating structure(s) would be within 20 centimeters of the operator's body when the station is in operation. Other stations are for operations at specific locations. More generally, construction permits are not required for earth stations. Accordingly, we seek comment with respect to earth stations on the same basic questions concerning the definition of MFA as for other facilities.

Antenna Structure Registration. The Commission has treated the registration of towers—known in our rules as ''antenna structures''—as an MFA. Our ASR rules require the registration of certain antenna structures to ensure that they do not present a hazard to air navigation and incorporate FAA requirements for agency notification. Antenna structure owners must submit FCC Form 854 and a valid FAA determination of ''no hazard'' before the Commission will issue the antenna registration.

We seek comment on whether we should continue to treat tower registration as an MFA under the current statutory definition and associated exclusions. Do our ASR requirements give the Commission ''substantial federal control and responsibility'' over the construction? Alternately, do they fall into the exclusion for non-federal actions ''with no or minimal Federal involvement'' under which the Commission ''cannot control the outcome of the project''? Is it relevant that our ASR rules only require registration; although, when required, construction may not begin until an ASR number is obtained? Should the Commission's reliance on the FAA determination of no hazard affect whether the Commission has sufficient control over tower construction?

We seek particular comment on whether ASR falls into the MFA exclusion for ''activities or decisions that are non-discretionary and made in accordance with the agency's statutory authority.'' The Commission and the FAA each have statutory responsibilities to ensure that antenna structures do not pose a threat to air safety. Section 303(q) of the Communications Act gives the

Commission ''the authority to require painting and/or illumination of radio towers if and when in its judgment such towers constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation.'' That provision also permits the Commission to ''require the owner to dismantle and remove the tower when the Administrator of the Federal Aviation Agency determines that there is a reasonable possibility that it may constitute a menace to air navigation.'' Separately, the FAA has authority under its organic statute to require that persons proposing to erect a structure provide notice to the FAA, when such notice will promote air safety. Title 49 obligates the FAA to ''conduct an aeronautical study to decide the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment'' and coordinate with the FCC on tower applications and aeronautical studies. To that end, FCC and FAA rules each have materially identical requirements, regulations, and cross-references for the kinds of facilities that trigger special notification. In light of these authorities, to what extent are the Commission's ASR rules ''non-discretionary'' and ''in accordance with an agency's statutory authority''?

Space-based operations. The amended NEPA excludes ''extraterritorial activities with effects located entirely outside of the jurisdiction of the United States from the MFA definition.'' The Commission issues licenses under parts 5, 25, and 97 for satellite and space-based communications. Parties have alleged in some cases that satellites in orbit can create impacts on the atmosphere from launches and reentries, impacts from satellites reflecting sunlight, and orbital debris caused by increased collisions in space. We seek comment on whether the amended NEPA resolves any question as to whether some or all of these concerns are within the scope of NEPA. We propose that space-based operations be excluded from NEPA because they are ''extraterritorial activities'' with effects located entirely outside of the jurisdiction of the United States. We seek comment on this proposal. We ask commenters to define with specificity the ''extraterritorial activities'' at issue along with the ''effects'' that may or may not occur within the jurisdiction of the United States. Are there space-based operations that take place within U.S. jurisdiction and otherwise subject to NEPA? Are there other ways in which the statutory definition of MFA, including the associated exclusions, should inform our determinations regarding satellite and space-based communications?

Other Commission actions. We ask commenters to identify other Commission actions we should consider as we update our rules to account for the new definition of MFA. In particular, commenters are invited to discuss whether it would be beneficial for the Commission to clarify that certain actions do not satisfy the definition of MFA or that they meet any of its enumerated exceptions, particularly those relating to non-federal actions. For example, the Commission has always considered NEPA as inapplicable to unlicensed wireless facilities; we propose to codify that practice into our rules.

Other legal obligations. We seek comment on the impact to the Commission's other legal responsibilities if certain actions were to fall outside NEPA for failure to qualify as MFAs. How should we address those legal responsibilities to the extent they are incorporated in the Commission's existing NEPA framework? Commenters are also invited to identify other legal requirements that may be affected by any potential changes to our NEPA rules consistent with the amended statute. We discuss our NHPA and ASR rules separately below. Given our primary focus on NEPA in this rulemaking, should we address collateral issues in a separate proceeding?

2. Federal Undertakings Under NHPA

The Commission's NEPA and NHPA procedural rules relating to activities the Commission regulates have long been entwined and are codified in the same set of rules. Accordingly, as we revisit the Commission's environmental rules in this proceeding, we take the opportunity to seek comment on any impact to our NHPA framework and examine what rule changes, if any, might be appropriate at this juncture.

Section 106 of the NHPA requires federal agencies to ''take into account the effect of . . . [an] undertaking on any historic property'' and ''afford the [Advisory Council on Historic Preservation] a reasonable opportunity to comment with regard to the undertaking.'' The NHPA, in turn, defines ''undertaking'' as a ''project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency.'' This includes projects, activities, and programs carried out by or on the behalf of an agency or carried out with federal financial assistance, as well as activities requiring a federal permit, license or application, and activities subject to state or local regulations administered pursuant to a requirement of, or approval by a federal agency.

We first seek comment on the factual circumstances that would transform Commission action into an ''undertaking'' triggering NHPA review. Dating back to the *2004 NPA Order* and reaffirmed as recently as the *2018 Wireless Broadband Deployment Second R&O,* the Commission has determined that an undertaking may exist in the context of wireless deployments in ''two limited contexts.'' *First,* an undertaking may exist if facilities that do not otherwise require preconstruction approval are nonetheless subject to § 1.1312(b) of the Commission's rules and thus must obtain FCC approval of an environmental assessment prior to construction. *Second,* an undertaking may exist if facilities are subject to the FCC's tower registration and approval process pursuant to section 303(q) of the Communications Act because they are over 200 feet or are near airports. We seek comment on whether the recent changes to NEPA changes or eliminates either or both grounds for an ''undertaking.''

NEPA triggers for NHPA review. In the *2004 NPA Order,* the Commission invoked what it described as ''section 319(d)'s public interest standard'' in requiring covered entities to comply with NHPA, even when no construction permit was otherwise required. The Commission contended that, even in the absence of a construction permit requirement, which it had previously waived for geographic area licenses, it retained ''limited approval authority'' over the construction. The Commission specifically pointed to its NEPA rules in § 1.1312, which states that ''[i]f a facility'' for which no Commission authorization prior to construction is required ''may have a significant environmental impact'' then the licensee must submit an environmental assessment to the Commission and the Commission must then rule on that assessment prior to initiation of construction of the facility.'' That ''limited approval authority,'' the Commission concluded, allowed it to treat tower construction as an NHPA undertaking. The D.C. Circuit upheld that determination, finding that the Commission was ''neither arbitrary nor capricious in determining that the FCC's approval authority under NEPA makes tower construction an undertaking.'' ''By requiring a ruling on each environmental assessment *prior* to tower construction,'' the court found, ''the FCC has retained authority over tower construction in order to ensure that it complies with NEPA.''

We seek comment on whether the statutory amendments to NEPA warrant reconsideration of the Commission's past decisions. If the Commission determines on the basis of the new MFA definition that certain antenna structure deployments, including those involving geographic area licenses, are no longer subject to NEPA review, should the Commission also determine that such deployments are no longer subject to NHPA review, as CTIA has argued in its Petition? CTIA argues that a geographic area license is not an MFA. Absent an MFA, NEPA does not apply and applicants cannot be required to consider the significance of environmental effects or applicability of categorical exclusions, as § 1.1312 currently prescribes. If § 1.1312 is amended to exclude certain antenna structure deployments, including those involving geographic area licenses, from NEPA review, would that remove the ''limited approval authority'' that the D.C. Circuit found sufficient to qualify as an NHPA undertaking?

Separately, CTIA argues in its Petition that some courts have treated the NHPA term ''undertaking'' and the NEPA term ''major federal action'' as ''essentially coterminous,'' and have found that an agency's involvement in a project must be ''substantial'' to constitute an undertaking under the NHPA. If the Commission determines that a geographic license is not an MFA, does it automatically follow that no undertaking exists?

In the event we determine geographic area licenses are not MFAs and/or federal undertakings under federal statues, we seek comment on whether the Commission's limited approval authority remains applicable to geographic area licenses because the Commission's stated purpose for retaining its limited approval authority—to ensure compliance with federal historic and environmental statutes—would not be at issue. In light of recent developments, should the Commission adjust or reconsider the need to retain its limited approval authority as invoked in the *2004 NPA Order*? If the Commission does retain its limited approval authority, we seek comment on whether requiring preconstruction permits before a geographic area licensee constructs a wireless facility is in the ''public interest, convenience, and necessity,'' particularly in the context of the Commission's bedrock responsibilities to facilitate ''rapid, efficient . . . wire and radio communications service with adequate facilities at reasonable charges,'' the ''development and rapid deployment of new technologies, products and services for the benefit of the public . . . without administrative or judicial delays,'' and ''efficient and intensive use of the electromagnetic spectrum.'' What are the benefits and costs to the Commission of retaining limited approval authority for geographic area licenses?

We further seek comment on whether the Commission's rules regarding buildout requirements (including requisite due dates for meeting buildout milestones) provide a sufficient basis for ''approval'' under 54 U.S.C. 300320 of the NHPA and 36 CFR 800.16(y) of the ACHP rules to constitute a Commission undertaking and, therefore, render projects with these requirements subject to NHPA section 106 review. If so, does that change once the licensee's buildout conditions are satisfied? If a geographic area licensee completes the buildout required under its license but subsequently decides to deploy additional wireless facilities to enhance its coverage with added capacity, would such additional deployments no longer be Commission undertakings? Commenters arguing that § 1.1312 must or should be retained in some form notwithstanding a decision that geographic area licensing does not represent an undertaking should explain both what statutory authority the Commission has to retain that rule in some form and why that rule would be justified as an exercise of any such statutory authority.

In the *Wireless Broadband Deployment Second R&O,* the Commission determined that the issuance of a geographic area wireless license does not constitute an undertaking in the absence of ''limited approval authority.'' We seek comment on whether any basis exists to revisit that determination. We also seek comment on CTIA's assertion that a geographic license is not a '' 'Federal permit, license or approval' that must be obtained before wireless facility deployment can proceed.''

ASR triggers for NHPA review. The Commission reasoned in the *2004 NPA Order* that its part 17 ASR procedures constitute an undertaking because, pursuant to its authority under section 303(q) of the Communications Act, the Commission adopted rules requiring that towers that meet certain height and location criteria, and that require clearance from the FAA as a condition precedent to tower construction, be registered with the Commission. Subject to certain exceptions, an applicant for tower construction or modification approval must, as part of the tower registration process with the Commission, ''submit a valid FAA determination of 'no hazard.''' Absent the provision of this FAA determination, the Commission's rules state that ''processing of the registration may be delayed or disapproved.'' Given this situation, the Commission reasoned that the ''Commission permissibly has viewed tower registration as a federal undertaking, in which the imposition of environmental responsibilities is justified'' and that its rule requirements amount to an ''approval process'' congruent with the elements of the NHPA definition of ''undertaking.'' The D.C. Circuit upheld these determinations, rejecting the argument that the ASR framework was ''wholly ministerial'' and did not create an ''approval'' process that would qualify as an undertaking. The court found relevant that, unlike the Commission, the FAA lacked statutory authority to require tower painting and lighting. Since the *2006 CTIA Decision,* the FCC has affirmed its determination that its ASR rules create an NHPA undertaking. We seek comment on whether the statutory changes to NEPA require reconsideration of those decisions. If the Commission determines that its ASR rules do not qualify as an MFA under NEPA, would that change one of the ''two limited contexts'' for an NHPA undertaking?

Other triggers for NHPA review. Finally, are there other types of actions that the Commission previously considered to be an undertaking (or that have been assumed or argued to be an undertaking) that we should now revisit or address—whether categories encompassed by our questions regarding NEPA above, or otherwise? Are there associated rules—whether analogous to or building on § 1.1312 of the rules, or otherwise—that we would be justified in repealing or modifying to ensure that there are no associated environmental review requirements?

B. Streamlining the Commission's Environmental Review Procedures

1. Commission's Environmental Notification and Public Participation Processes

Environmental notification and public participation processes apply under our rules governing ASR applications. Historically, the Commission has identified the processing of ASR applications as a Commission MFA, and we seek comment on whether the Commission should continue to do so, as described above. ASR is required by the Commission's rules pursuant to section 303(q) of the Communications Act to ensure that towers meeting certain criteria, *i.e.,* over 200 feet tall

AGL or within the glide slope of an airport, will not be a menace to air navigation. In *American Bird Conservancy* v. *FCC,* which involved litigation related to ASR towers and the Migratory Bird Treaty Act (16 U.S.C. 703–712), the D.C. District Court held that while § 1.1307(c) of the Commission's rules purported to allow interested parties the opportunity to comment on otherwise categorically excluded ASR applications, the Commission did not provide a meaningful opportunity for interested parties to do so because notice of those applications was not provided until after they were granted.

In response to the court's remand, the Commission adopted the environmental notification process, by which the public is provided advance notice of pending ASR applications and the opportunity to comment on them to request further environmental processing. The environmental notification process requires applicants to provide local and national public notice and incorporates a pleading cycle for requests for further environmental review that mirrors § 1.45 of the Commission's rules. Section 17.4(c)(1) of the Commission's rules contains a list of exemptions to the environmental notification process that apply to administrative changes or actions that the Commission has determined are unlikely to have a significant environmental effect. Additionally, ASR applicants can seek waivers of the environmental notification process, for example, due to emergency circumstances.

In light of our review of our environmental rules, we seek comment on whether the Commission is legally required to retain its environmental notification process, codified at § 17.4(c) of its rules, and, if not, whether it should retain these rules. Given the court's finding that communications towers may affect migratory birds protected by the MBTA, is the Commission legally required to provide public notice of pending ASR applications? How does this analysis change if the Commission chooses to delete § 1.1307(c)? Are there other ways in which the Commission could evaluate the potential effects of ASR towers on migratory birds?

In the event the Commission were to find projects requiring registration in the ASR database to be MFAs, would the environmental notification process found at § 17.4(c) of the rules be necessary to facilitate the environmental review process? Are there changes the Commission should consider making to the process, including changes that could be made to streamline this process? We seek comment on whether the environmental notification process should continue to be required for all ASR applications that do not meet the criteria for an exception, and on whether and how the exceptions to the environmental notification process should be amended. Should the Commission reserve the environmental notification requirement for ASR applications that require EAs?

2. Updating the Commission's Categorical Exclusion and Extraordinary Circumstances Rules

Commission MFAs are categorically excluded from further environmental processing in the form of an EA or EIS unless one or more of the extraordinary circumstances provided in § 1.1307 are implicated. Sections 1.1307(a), (b)(1)(i)(C), and the note to (d) provide specific, enumerated extraordinary circumstances, which the Commission has determined may have a significant environmental effect and, therefore, require an applicant to prepare an EA. Sections 1.1307(c) and (d) provide catchalls for extraordinary circumstances not otherwise enumerated that require preparation of an EA if the reviewing Bureau determines that the proposed MFA may have a significant environmental impact. As discussed below, we are seeking comment on whether clarifications to the Commission's rules governing when an EA is required are necessary, whether we should delete or revise the list of extraordinary circumstances in § 1.1307(a), and whether we should delete or revise the catchall provisions contained in §§ 1.1307(c) and 1.1307(d).

Final Agency Action. Section 106(a)(1) of NEPA states that an agency is not required to prepare an environmental document with respect to a proposed agency action if ''the proposed action is not a final agency action within the meaning of such term in chapter 5 of Title 5.'' We seek comment on whether it is necessary for us to revise our rules to clarify whether actions on delegated authority are final agency actions within the meaning of that specific statutory provision. Is this statutory provision altered by the new definition of ''major federal action'' in the 2023 FRA? May Bureaus or Offices, on delegated authority, properly require applicants to file an EA or EIS? Are further changes to our rules necessary to implement this statutory provision? For example, should a bureau-level determination to conduct an EA/EIS be referred to and voted on by the full Commission? Would these changes respect the goals of NEPA and NHPA, while balancing the Administration's efficiency goals?

Circumstances Requiring Preparation of an EA. In the amended NEPA statute, it states that an EA is required when a proposed MFA ''does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown,'' unless the agency finds that the action is categorically excluded or excluded by another provision of law. Because the Commission categorically excludes most Commission actions, applicants at most need only prepare an EA when one or more extraordinary circumstances are present—either of the enumerated extraordinary circumstances in § 1.1307 or because a responsible Bureau has determined the proposed MFA may have a significant environmental impact under the catchall provisions of § 1.1307(c) and (d). Applicants make the initial determination of whether one or more of the enumerated extraordinary circumstances applies to the proposed MFA, and an EA is only required for a proposed MFA that has been categorically excluded if one or more of the listed extraordinary circumstances are present or the Bureau determines that the action may have a significant environmental impact. We seek comment on whether to retain the current extraordinary circumstances in § 1.1307 or whether changes to our rules describing when an EA is required may be necessary given the current state of the governing law or to otherwise provide greater efficiency and clarity.

Does the Commission's existing CE regulation, in combination with the extraordinary circumstances, in § 1.1307 address situations where—and only where—an EA is required under the amended NEPA statute, or are revisions needed to reflect the statutory amendments? We seek comment on whether it is clear under the Commission's current rules that the Commission's list of extraordinary circumstances, which indicates the circumstances under which a proposed MFA ''may significantly affect the environment,'' captures scenarios where the significance of the environmental effect is unknown, and that an EA is therefore required under NEPA. If not, should the Commission consider a clarification to its rules to make the application of that standard clearer, either in general or as a way of specifically ensuring that additional environmental processing of actions subject by default to CEs is not required beyond what NEPA itself calls for? Are there other provisions in the NEPA

statute that the Commission should consider in determining whether to maintain or adjust the standard for determining when an EA is required in a specific instance where a CE otherwise would apply by default? Commenters who support the continued use of the Commission's existing approach or changes to the rules should explain why their recommended approach is consistent with the amended NEPA, along with the Commission's authority under federal communications statutes.

Alternatively, should the Commission consider revising its rules to create, instead of an overarching CE rule, a list of individual CEs specific to particular Commission MFAs, describing the MFAs and the conditions under which they are categorically excluded? For example, to the extent the Commission determines that NEPA applies to these actions, should the Commission develop CEs specific to communications towers (including broadcast and wireless facilities), to satellites, earth stations, submarine cables, and to otherwise eligible facilities to the extent they directly receive Commission support? If the Commission determines that towers built pursuant to geographic licenses are MFAs, should the Commission adopt a categorical exclusion that applies specifically to these towers, and, if so, should the Commission also describe any extraordinary circumstances that might apply to geographically licensed towers such that environmental review would be necessary? To the extent the Commission determines that NEPA applies to these actions, should the Commission create CEs related to projects constructed in rights of way, to the mounting of antennas on existing structures, and to smaller facilities such as small wireless facilities and distributed antenna system facilities? Are there other additional categories of MFAs for which the Commission should develop CEs, assuming it opts to follow this path, and if so, what are they? If the Commission should decide to create CEs specific to individual categories of Commission MFAs, we seek comment on how the Commission should formulate these CEs. Commenters should explain why they think the potential categories of Commission MFAs listed above, or any others, should be categorically excluded, and include specifically why they think these MFAs will not have a significant environmental effect. If the Commission opts to restructure its NEPA process to create a list of CEs (instead of an overarching CE), what other resulting changes to the Commission's NEPA process and associated environmental rules would be necessary? For example, how should the Commission apply and document the application of these CEs? We also seek comment on when and how to apply a CE to a particular MFA, notwithstanding the presence of one or more extraordinary circumstances; commenters should support their legal positions. If the Commission were to allow for the application of a CE when one or more extraordinary circumstances is present and to implement a process for doing so in its rules, what would that process look like and how should the Commission implement it? Would the Commission be required to support and document a finding that the proposed agency action will not result in reasonably foreseeable adverse significant impacts, or that the proposed agency action can be modified to avoid those effects, and, if so, how should it do so? What other changes to the Commission's NEPA processes and associated environmental rules may be necessary to implement this scenario?

We also note that the NEPA statute, as amended, states that agencies making a determination as to whether to prepare an environmental document or whether an MFA is excluded under a CE, among other determinations, ''may make use of any reliable data source,'' but are not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable. We seek comment on whether any changes may be needed to the Commission's rules, particularly the list of extraordinary circumstances in § 1.1307 to conform to this provision in the statute. Should the Commission clarify what sources of information or level and quality of evidence should be considered in determining whether a CE or an extraordinary circumstance applies?

In the event the Commission retains its current NEPA process based upon an overarching CE, we seek comment on amending § 1.1306(a) of the Commission's rules—to more closely track the new statutory definition of a CE. Section 1.1306 was adopted in 1986, consistent with CEQ rules then in effect that defined categorical exclusions as categories of actions which do not individually or cumulatively have a significant effect on the human environment and thus may be excluded from environmental review requirements. Given that NEPA itself now sets forth a definition of ''categorical exclusion''—''a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment''—we seek comment on whether to reformulate the text of § 1.1306(a) to more clearly conform to that statutory language.

Facilities to be Located on Floodplains. As part of the Commission's list of extraordinary circumstances, § 1.1307(a)(6) of the Commission's rules provides that facilities located in floodplains must be placed at least one foot above the base flood elevation of the floodplain. Consistent with the policy goals of E.O. 14154 to remove ambiguities that may cause confusion or delay, and in recognition of the amended NEPA, we seek comment on whether we should modify § 1.1307(a)(6) of the Commission's rules to clarify that the facilities that must be elevated include antennas and associated equipment, including electrical equipment, but not antenna towers.

Change in Surface Features. Section 1.1307(a)(7) of the Commission's rules requires an EA for those MFAs which ''involve significant change in surface features.'' This section provides examples of significant changes to surface features, including the use of ''wetland fill, deforestation, or water diversion.'' The rule, however, does not contain a definition of ''significant.'' Should the Commission consider any changes to this extraordinary circumstance to provide greater clarity?

Updated List of Enumerated Extraordinary Circumstances. As noted above, § 1.1307 provides enumerated extraordinary circumstances generally requiring preparation of an EA as well as provisions pursuant to which an interested member of the public may petition for further environmental process and to which a reviewing Bureau may, in its discretion, order an EA in the case of an action otherwise subject to a CE. We do not believe the amended NEPA statute requires any additions to our list of extraordinary circumstances, but we seek comment on whether this list needs updating. Are there any existing categories of extraordinary circumstances that should be omitted; if so, why? In addition, NEPA and NHPA were historically evaluated together because the definitions of ''undertaking'' and ''major federal action'' were ''essentially coterminous.'' Because the new definition of MFA might potentially change this understanding, should the Commission take this opportunity to decouple NHPA review from NEPA review by removing § 1.1307(a)(4)—facilities that may affect historically significant places or objects—from the list of extraordinary circumstances that

may have a significant environmental effect for which an EA must be prepared?

Note to Section 1.1307(d). In 2011, the Commission adopted a note to § 1.1307(d) of the Commission's rules that provides that ''[p]ending a final determination as to what, if any, permanent measures should be adopted specifically for the protection of migratory birds, the Bureau shall require an Environmental Assessment for an otherwise categorically excluded action involving a new or existing antenna structure, for which an antenna structure registration application . . . is required . . . if the proposed antenna structure will be over 450 feet in height above ground level (AGL) . . . . '' This note applies to: (1) the construction of a new antenna structure; (2) the modification or replacement of an existing antenna structure involving a substantial increase in size; or (3) the addition of lighting or the adoption of a less preferred lighting style. The note codifies the main provision of a 2010 Memorandum of Understanding between industry and conservation groups in which the parties agreed that an EA should be required for all towers over 450 tall AGL to evaluate potential significant effects to migratory birds.

Section 1.1307(d) gives the responsible Bureau authority to require an EA on its own motion if the Bureau determines an MFA may have a significant impact on the environment and, therefore, the note's EA requirement is not included as one of the enumerated extraordinary circumstances. We seek comment on whether we should revise § 1.1307(a) to incorporate the instruction contained in the note to § 1.1307(d), consistent with section 106(b) of NEPA. Would this modification be consistent with the policy goals of E.O. 14154 to remove ambiguities that may cause confusion or delay and in recognition of the amended NEPA? If the Commission decides to revise § 1.1307(a) of its rules to incorporate permanent measures for the protection of migratory birds and remove the note to § 1.1307(d), should the Commission, by virtue of the order adopting such measures, close WT Dockets 03–187 and 08–61 regarding the effects of communications towers on migratory birds and the *American Bird Conservancy* v. *FCC* court decision?

We also seek comment on whether the Commission should change any of the other aspects of the EA requirement set forth in the note to § 1.1307(d). For example, the FAA's 2015 Advisory Circular updated lighting requirements to only require steady-burning red lights for a subset of towers under 150 feet in height AGL, and to use flashing lights for all towers 151 feet or taller. Should the Commission retain the requirement to complete an EA for any towers over 450 feet tall AGL that adopt or add a less-preferred lighting style? If so, should the Commission amend this EA trigger to only require an EA where lighting is added to an unlit tower?

Satellite Licensing. Regarding the licensing of non-geostationary orbit (NGSO) satellite constellations, the D.C. Circuit upheld Commission decisions to license specific NGSO constellations without requiring an EA, with one court upholding the Commission's finding that the large satellite constellation in question would not present significant environmental impacts based on the Commission's review of the factual information presented in the licensing proceeding and FAA launch requirements. We ask above whether the Commission should create a CE specifically for satellites, if we determine that such space activities fall under NEPA. We seek comment on whether there are any specific circumstances that we should codify as extraordinary circumstances that could warrant additional environmental processing, or specific types of impacts that would not be considered as constituting such circumstances, assuming satellite licensing should be treated as a major federal action?

Deleting or Revising Rules and Provisions of Section 1.1307. We seek comment on whether any of the Commission's enumerated extraordinary circumstances should be deleted or otherwise streamlined. Commenters supporting the deletion or streamlining of these rules should explain which circumstances should be deleted or streamlined and how deleting or streamlining these circumstances is consistent with NEPA and is in the public interest.

The NEPA statute states broadly that the federal government should seek to preserve the nation's natural and cultural environment in order to ensure the health, safety, and productivity of the American people. In furtherance of this objective, the Commission adopted § 1.1307(c) and (d) as a ''safeguard'' to ''assure performance of our responsibilities under NEPA'' and to give the Commission discretion in reviewing proposed MFAs to ensure compliance with the statute's objective of promoting federal agency environmental responsibility. However, the amended NEPA statute does not expressly require that the Commission have catchall provisions. We seek comment on whether to retain or delete them. If we delete § 1.1307(c), are there changes that we should consider making to our list of extraordinary circumstances to capture certain circumstances which now fall within the catchall provision of 1.1307(c), such as aesthetics? If we delete § 1.1307(c), should we retain § 1.1307(d) in order to safeguard the Commission's ability to meet the policy objectives of safeguarding the natural and cultural environment? Or is the list of enumerated extraordinary circumstances sufficient to meet our obligations under NEPA? If we delete or revise these rule sections, what similar changes may also be necessary to our part 17 rules?

In the event the Commission retains rather than deletes § 1.1307(c), we seek comment on whether we should revise this section. Although this section requires petitioners to allege facts in detail, in many instances petitions rely on speculative allegations, lack sufficient detail to identify the specific project to which the petitioner objects, or allege a harm that is too vague to evaluate. We seek comment on whether we should revise this rule to establish minimum petition requirements, consistent with the amended NEPA statute, which provides that agencies determining whether an action is categorically excluded or whether an EA or EIS is required, ''may make use of any reliable data source,'' but generally are not required to undertake new scientific or technical research. Should we revise the rule to include an enumerated list of details that must be included before a petition can be acted upon, including the physical address of an action, the tower owner or construction company associated with the action, and a statement articulating the link between the action and the alleged impact on the human environment?

In the event we revise § 1.1307(c), we also seek comment on how we might revise the process of reviewing § 1.1307(c) petitions to reduce the length of the adjudication process. CTIA proposes that the Commission adopt a policy of resolving any contested proceedings involving an informal complaint or petition to deny that is filed against an application containing a completed EA within a specified period. We seek comment on the potential advantages and disadvantages of setting a specific timeframe for resolving adjudications. How should the Commission respond if it receives new, substantive submissions from third parties which an applicant or licensee has not addressed? Can and should the Commission circumscribe the comment

process in a way that guards against such concerns?

We also seek comment on whether the Commission should adopt a page limit on § 1.1307(c) petitions. The amended NEPA statute imposes 75 page limits on EAs and 150 page limits on EISs—expandable to 300 pages for extraordinarily complex EISs.

3. Adoption of Another Agency's Categorical Exclusion

The amended NEPA statute seeks to accelerate the permitting process by streamlining the process by which one agency may adopt another agency's CE, where appropriate. For example, the National Telecommunications and Information Administration (NTIA) and the Rural Utilities Service (RUS) have developed categorical exclusions for communications towers that the Commission could, potentially, adopt. Under the amended statute, an agency must follow four steps when adopting another agency's categorical exclusion: (i) identify the CE listed in another agency's NEPA procedures that covers a category of proposed actions or related actions; (ii) consult with the agency that established the CE to ensure that the proposed adoption of the CE to a category of actions is appropriate; (iii) identify to the public the CE that the agency plans to use for its proposed actions; and (iv) document adoption of the CE.

When adopting another agency's CE, we seek comment on how the Commission should consider extraordinary circumstances. Should it consider the extraordinary circumstances of that agency (if they exist), the Commission's own extraordinary circumstances, both, or some other approach? Commenters should explain their reasoning for whichever approach they believe the Commission should adopt and why they believe the Commission should not take other approaches when adopting another agency's CE.

As discussed above, section 1.1307(c) of the Commission's rules allows interested persons to petition for further environmental processing of actions otherwise categorically excluded. Such petitions may allege that a proposed Commission MFA may have a significant environmental effect, whether or not the potential effect is included in the Commission's list of extraordinary circumstances. Although we are seeking comment on removing this provision, if the Commission ultimately decides to retain or revise § 1.1307(c), we seek comment on how to address petitions from interested persons in the context of having adopted another agency's CE under section 109 of NEPA. We seek comment on whether § 1.1307(c) should apply when the Commission has adopted another agency's CE under section 109 of NEPA. Why or why not, and under what, if any, circumstances? If we conclude that an interested person may petition for further environmental processing of a specific project to which the Commission has applied another agency's CE that the Commission adopted, we anticipate that the Commission can adjudicate the petition independently of the agency whose CE we have adopted. Do commenters agree? We seek comment generally on the best approach to adopt for addressing petitions on projects that are otherwise excluded through the application of another agency's CE that the Commission adopted.

4. Procedures for Determining Lead and Cooperating Agency

Determining the Lead and Cooperating Agencies. With respect to a proposed agency MFA, NEPA defines the lead agency as the agency that proposed the MFA or, if there are two or more federal agencies involved in the MFA, the agency designated as lead agency. When there is more than one federal agency participating in an MFA under NEPA, the revised statute establishes that a lead agency, or joint lead agencies, will perform a list of specific functions related to NEPA review of the proposed MFA and requires agencies to determine the lead among multiple participating agencies by evaluating five enumerated factors. NEPA further provides procedures for requesting the appointment of and for appointing a lead agency or joint lead agencies when needed and requires that such designation be memorialized in a letter or memorandum. The statute also provides for the designation of cooperating agencies, which may participate in NEPA review of the proposed MFA in a variety of ways. We seek comment on how the Commission should adopt rules implementing NEPA's provisions regarding lead and/or cooperating. We further seek comment on what constitutes an acceptable written memorialization of a lead agency decision and whether the Commission should define such a memorialization in its NEPA rules. Alternatively, do these processes need to be addressed in our rules? Are there other rules that the Commission should consider when it participates in the designation of a lead agency (when it is one of multiple participating agencies) and when it is designated and acts as lead agency?

5. Commission's Federal Agency Exception

The Commission's environmental rules are designed to reduce or eliminate duplication of effort in the submission and review of environmental information by this agency and other federal agencies. Consistent with the concept of lead and cooperating agencies, the Commission's rules include, in two sections, what is known as the federal agency exception. In the Commission's part 1 rules, the federal agency exception provides that an applicant or licensee is not required to file an EA with the Commission if another federal agency has assumed responsibility for determining whether the facility will have a significant environmental effect and, if so, for invoking the EIS process. Similarly, the Commission's part 17 rules contain the same exception, but with the added criteria that the proposed action be sited on federal land and specifying an additional means of meeting the exception's criteria, *i.e.,* ''where another Federal agency has assumed such responsibilities pursuant to a written agreement with the Commission.''

Federal Agency Exception Compliance with NEPA. In light of NEPA's above-described provisions governing the designation of lead and cooperating agencies, as well as directives such as those to ''make use of reliable data and resources in carrying out'' NEPA, we seek comment on whether the Commission should retain its federal agency exception as currently codified in Parts 1 and 17 of the Commission's rules, and whether these two rules, as the Commission has applied them in practice, comply with the amended NEPA statute. If so, we seek comment on whether and how we should amend these rules, and whether the Commission should instead adopt a singular federal agency exception rule. For example, if another agency has assumed responsibility for a specific project(s) and completed its environmental review, should the Commission require procedures similar to the adoption of another agency's CE or the lead agency determination process to ensure compliance with the amended NEPA statute? For any changes made to the federal agency exception, should we make corresponding changes to FCC Form 854 (which is filed electronically via ASR)?

Documentation of Another Federal Agency's Environmental Review. Assuming the Commission retains the federal agency exception, we seek comment on how the Commission should determine when another federal

agency's environmental review of a proposed MFA is sufficient for the Commission to apply this exception to the EA requirement and/or to the environmental notice requirement, as applicable. Traditionally, the Commission has accepted an EA and FONSI or an EIS and Record of Decision (RoD) as sufficient evidence that another federal agency has taken responsibility for the NEPA process, through the EIS process, if required, and confirms that this evidence satisfies the Commission's NEPA responsibility. Should the Commission continue to accept an EA and FONSI or an EIS and RoD for purposes of the federal agency exception?

Due to great variance in the content, structure, and level of detail in different agencies' CEs and their accompanying lists of extraordinary circumstances in which the CE would not apply, an applicant is not required to submit an EA to the Commission if another agency of the federal government has assumed responsibility for determining whether of the facilities in question will have a significant effect on the quality of the human environment. Given that the revised NEPA statute provides a clear path to adopt another federal agency's CE, as discussed above, should the Commission rely on another federal agency's application of a CE in a given instance for purposes of applying the federal agency exception, and, if so, under what circumstances? We also seek comment on whether the Commission should, when applying the federal agency exception, continue to ensure that its list of extraordinary circumstances (which, if present, indicate that the MFA may have a significant environmental effect under the Commission's rules) have been adequately considered, and whether it may be required to do so to comply with the revised NEPA statute. We also seek comment on what, if any, NEPA responsibility the Commission may still have after applying the federal agency exception to a particular MFA.

While rarely used, the part 17 federal agency exception includes a provision allowing an ASR application to be exempt from the environmental notification requirement because another agency has assumed NEPA responsibility for an MFA pursuant to a written agreement with the Commission. We seek comment on whether this provision regarding a written agreement is beneficial to Commission licensees and applicants, and, if not, whether we should delete it. Commenters who support retaining this provision should address whether it complies with the amended NEPA statute, particularly provisions dealing with the designation of a lead agency, and whether and how it should be amended?

Requirement for Siting on Federal Land. Finally, to the extent we retain the part 17 federal agency exception, we seek comment on amending the provision that requires the proposed facilities to be sited on federal land. When it adopted this rule, the Commission reasoned that this exception should apply only to MFAs located on federal land because the landholding federal agency routinely assumes lead agency responsibilities. However, the rule as adopted does not require the federal agency taking responsibility for NEPA review to be the landholding agency; instead, the rule allows the NEPA review of the project on federal land to be performed by any federal agency. In rare cases, this can result in a scenario in which an ASR application does not qualify for the part 17 federal agency exception to the notice requirement only because it is not located on federal land, even if it does qualify for the part 1 federal agency exception to the EA requirement. To the extent the part 17 federal agency exception is retained, we seek comment on whether we should eliminate the requirement that the proposed facilities be sited on federal land. For any changes made to the federal agency exception, should we make corresponding changes to FCC Form 854 (which is filed electronically via the ASR)?

6. Other Potential Changes to NEPA Procedures

Excluding Voluntary ASR Registrations from the FAA Notice Requirement. Licensees are required to register a proposed tower or antenna structure in the ASR system if the project ''requires notice of proposed construction to the Federal Aviation Administration (FAA) due to physical obstruction[.]'' However, applicants may also voluntarily register their proposed tower or antenna structure in ASR. In 2014, the Commission considered whether to prohibit voluntary registrations but concluded they should be permitted because ''many owners register antenna structures voluntarily in order to file an Environmental Assessment and obtain a Finding of No Significant Impact under the Commission's environmental rules, or to satisfy other needs'' such as satisfying contractual obligations or requirements imposed by state or local jurisdictions. If a tower is voluntarily registered, the structure is not subject to the lighting or marking requirements of towers otherwise required to be registered in ASR, but the applicant must indicate on FCC Form 854 that the filing is voluntary and must comply with all of the other requirements of § 17.4 of the Commission's rules including the need to complete a notice to the FAA and to obtain an FAA study number which constitutes a determination of ''no hazard to air navigation.''

In many instances, an applicant submits an ASR application solely for the purpose of submitting a required EA. Given this voluntary registration process is not codified in the Commission's rules, we seek comment on whether we should do so. What modifications to FCC Form 854 (which is filed electronically in the ASR system) would be necessary to account for this category of ASR registrations? Additionally, because voluntary registrations are a sub-category of registrations that do not require notice of proposed construction to the FAA due to physical obstruction, we seek comment on whether we should exclude voluntary ASR registrations from the requirement to obtain an FAA No Hazard Determination. We seek comment on the potential costs and benefits of removing the requirement to complete an FAA notice and obtain an FAA No Hazard Determination for voluntarily registered towers. We also seek comment on whether we should exclude any other ASR requirements for voluntary ASR registrations and the benefits and costs of any such exclusions.

Clarifying Definition of Antenna Structure Property. The Commission's rules impose a variety of requirements on applicants and licensees that are dependent on the boundaries of the ''antenna structure property'' or ''site'' (hereafter ''antenna site'') where an antenna structure is located. However, these requirements do not provide for a uniform definition of an antenna site. Consistent with the policy goals of E.O. 14154 to remove ambiguities that may cause confusion or delay, and in recognition of the amended NEPA, we seek comment on whether to adopt a universal definition of ''antenna structure property'' in the Commission's environmental rules.

Removing References to Rescinded Regulations. As detailed above, CEQ issued an interim final rule seeking comment on removing CEQ regulations from the CFR. Additionally, the D.C. Circuit stated in *Marin Audubon Society* that CEQ rules are not binding on other agencies and that CEQ serves as an advisory agency. We propose to remove references to CEQ's regulations in the Commission's environmental rules and

seek comment on if the removal of these references creates other necessary revisions not currently proposed.

C. Modernizing the Commission's EA and EIS Requirements

1. Updating the Commission's EA Requirements

Project Sponsor Preparation of an EA. The Commission's rules require applicants and not the responsible Bureau to prepare an EA in cases where it is determined one is necessary. Further, the Commission's rules provide project sponsors with guidance on the information that must be included in an EA and state that the Commission will independently review EAs. Similarly, the amended NEPA provides that "[a] lead agency shall prescribe procedures to allow a project sponsor to prepare an environmental assessment . . . under the supervision of the agency." This amendment further provides that the "agency may provide such sponsor with appropriate guidance and assist in the preparation" and that "[t]he lead agency shall independently evaluate the environmental document and shall take responsibility for the contents." Consistent with the policy goals of E.O. 14154 to remove ambiguities that may cause confusion or delay, and in recognition of the amended NEPA requirements, we seek comment on any changes to these rules that we should make. Are there any changes we could make to these rules that are consistent with NEPA and the revisions to NEPA that would help expedite environmental processing time and reduce costs and burdens for project sponsors, including those that are small entities?

EA Document Requirements. We propose to modify § 1.1311 of the Commission's rules to require EAs to include "a statement of purpose and need that briefly summarizes the underlying purpose and need for the proposed agency action" and to impose a 75-page limit on EAs, excluding citations and appendices, as required by the amended NEPA statute. Section 1.1311 of the Commission's rules sets forth the information that must be included in an EA, which does not require a statement as to the purpose or the need for the proposed Commission action nor does it impose a page limit on the length of an EA. Accordingly, we seek comment on our proposal to modify § 1.1311 of the Commission's rules to require EAs to include a statement of purpose and need and to impose a 75-page limit on the length of EAs. With respect to the EA page limit requirement, we seek comment on how the Commission should enforce this requirement.

Public Comment on Submitted EAs. We seek comment on whether we should continue to require EAs to be placed on public notice for a 30-day comment period prior to the issuance of a FONSI or a decision to require further environmental processing. The antenna structure registration rules provide for the processing of EAs by placing them on public notice for a 30-day comment period. Specifically, section 17.4(c)(5) and (7) of the Commission's rules provide that the Commission shall post notification of an EA on its website and the posting shall remain on the Commission's website for a period of 30 days. When an EA is submitted as an amendment to a pending application, the 30-day comment period is restarted.

While NEPA describes an EA as a "public document," its provisions requiring an agency to seek public comment apply specifically to notices of intent to prepare an EIS. NEPA provides: "[e]ach notice of intent to prepare an environmental impact statement under section 4332 of this title shall include a request for public comment on alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action." The public comment requirement of NEPA does not specifically reference EAs. We seek comment on whether we should continue to require a public comment period before determining whether to issue a FONSI or require further environmental processing. Beyond the NEPA statute, are there procedural requirements under the Administrative Procedure Act or other environmental statutes that should inform our approach to these issues, either alone or in conjunction with provisions of the Communications Act?

As part of this inquiry, we seek comment on what it means when a document is considered a "public document" under NEPA and whether NEPA's referral to EAs as public documents means that the Commission must continue to provide public notice of EAs and allow for the public to comment on EAs before the Commission determines whether to issue a FONSI or require further environmental processing.

One-Year EA Submission Deadline. We propose to modify §§ 1.1308 and 17.4 of the Commission's rules to require that the EA submission process be completed within a one-year period, as required by the amended NEPA statute. The amended statute allows the Commission, in consultation with the applicant, to extend the deadline, but only by so much time as is needed to complete the EA, and the Commission must report to Congress all EAs that were not completed by the one-year deadline with an explanation for why the one-year deadline was missed. The NEPA amendments, however, do not specify when an EA is deemed to be completed.

We seek comment on how the Commission should implement this one-year deadline. The amended NEPA statute states the start of the one-year period is the sooner of three dates/instances, as applicable: (i) the date on which the agency determines an EA is required; (ii) the date on which the agency notifies the applicant that the application to establish a right-of-way for such action is complete; or (iii) the date on which the agency issues a notice of intent to prepare the EA. We tentatively find that not all of these scenarios are applicable to the Commission's environmental procedures and seek comment on that finding. As noted above, the Commission currently relies on its applicants to determine, in the first instance, whether an EA is required. Should the Commission deem that the one-year period starts on the date the Commission receives an applicant's completed EA or is there another benchmark that should be used for the start of the one-year period? How should the Commission determine when the one-year period ends? Are there any special circumstances that may merit consideration of a different start date for all applicants or for small entities? We also seek comment on how we should implement the statutory directive that allows an agency, in consultation with the applicant, to extend the EA submission deadline, but by only so much time as needed to complete the EA submission process.

Timeframes for Commission Action on EAs. In the *Wireless Broadband Deployment Second R&O,* the Commission committed to timeframes for reviewing and processing EAs in order to provide greater certainty and transparency to applicants, thereby facilitating broadband deployment. While the Commission committed to specific timeframes when it adopted the *Wireless Broadband Deployment Second R&O,* these timeframes were not codified into our rules. We seek comment on whether the Commission should continue to commit to these timeframes and whether we should codify them in our environmental processing rules. We note that CTIA asserts that the Commission should amend § 1.1308 of the Commission's rules to incorporate these timeframes for

reviewing and processing EAs. Further, CTIA argues that: ''[i]n all cases, the Commission must issue a determination no later than one year after the EA is determined to be complete, unless a new deadline is established in consultation with the applicant. If the Commission fails to timely act, the applicant may seek review by a court of competent jurisdiction.'' If the Commission determines to maintain these timeframes, will this create any issues with the amended NEPA requirement that the EA submission process be completed within a one-year period? Do the timeframes adequately balance the Commission's need to fulfill its statutory obligations under NEPA with the need to facilitate broadband deployment?

Deleting Unnecessary EA Rules. Finally, we seek comment on whether there are parts of the Commission's EA rules that should be deleted. Commenters supporting the deletion of any of the Commission's EA rules should explain how this action would be consistent with the Commission's statutory obligations and would be in the public interest. For instance, do the NEPA EA provisions speak for themselves and, therefore, the Commission could just reference these statutory provisions or parts of these provisions in its EA rules? Are there other changes the Commission should consider to streamline its EA procedures?

2. Updating the Commission's EIS Requirements

We seek comment on how to revise the Commission's EIS rules to align them with the changes in the amended NEPA statute. The amended NEPA statute made several changes to NEPA's EIS requirements. These revisions include: (1) a requirement that agencies prescribe procedures to allow a project sponsor to prepare an EIS under the supervision of the agency; (2) public notice of intent to prepare an EIS and request for comments on alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action; (3) a 150-page limit except for complex issues, which are limited to 300 pages; and (4) a two-year deadline for completion, with the ability to extend the deadline only so long as necessary to complete the EIS, and a requirement that missed deadlines be reported to Congress. Below, we seek comment on whether we should incorporate these statutory changes into the Commission's EIS rules or just reference the statutory provisions in the EIS rules.

Project Sponsor Preparation of an EIS. Currently, section 1.1314(a) of the Commission's rules provides that the responsible Bureau shall prepare draft and final EISs. We seek comment on whether we should revise § 1.1314(a) of the Commission's rules to require applicants to prepare an EIS, as permitted by the amended NEPA, when the Commission determines one is necessary. Would requiring the project sponsor (*i.e.,* the applicant) to prepare the EIS prioritize efficiency and expeditious review? Are there any other factors that the Commission should consider in deciding whether to make this change? If the Commission decides to require applicants to prepare an EIS when one is required, what other changes to the Commission's EIS procedures may be needed to facilitate this process?

Public Notice and Related Requirements. Sections 1.1308(c) and 1.1314(b) of the Commission's rules provide that the responsible Bureau will publish in the **Federal Register** a notice of intent that Draft and Final EISs will be prepared in those situations where the responsible Bureau determines that further environmental processing is required. Section 1.1315(d) of the Commission's rules provides that members of the public may comment on the Draft EIS and the environmental effect of the proposal within 45 days after notice of the availability of the statement is published in the **Federal Register**. The Commission's rules, however, do not include the amended NEPA requirement that ''[e]ach notice of intent to prepare an environmental impact statement . . . shall include a request for public comment on alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action.'' We propose to modify the Commission's EIS rules to better align with the statutory directive.

Page Limits. We seek comment on how we should incorporate the statutory directive that an EIS should not be longer than 150 pages, not including any citations or appendices, except for a proposed action of extraordinary complexity where the page limit is 300 pages, not including any citations or appendices. The Commission's existing EIS rules do not include page limits pertaining to the length of an EIS.

Two-year Completion Deadline. The Commission's existing environmental processing rules do not contain EIS completion deadlines. The amended NEPA, however, includes a two-year deadline for completing an EIS and gives the Commission the ability to extend the deadline as long as necessary to complete the EIS with the requirement that the Commission report to Congress any missed deadlines. We seek comment on how we should incorporate these provisions into Commission's rules. The amended NEPA statute starts the two-year period at the soonest of three dates: (i) the date on which the agency determines an EIS is required; (ii) the date on which the agency notifies the applicant that the application to establish a right-of-way for such action is complete; or (iii) the date on which the agency issues a notice of intent to prepare the EIS. We tentatively find that not all of these scenarios are applicable to the Commission's environmental procedures and seek comment on this finding. For those that apply, does one of these scenarios occur before the other? For instance, should the Commission determine that the two-year completion period starts on the date the Commission publishes in the **Federal Register** a notice of intent to prepare an EIS? This approach seems consistent with the Commission's current regulations, but are there situations where one of the other two ways might make more sense? If so, what are these situations and how should the Commission determine that one of the other ways should be utilized? Does it make a difference if the EIS will be a project sponsor-prepared EIS or if the project sponsor is a small entity? Further, we seek comment on how we should implement the statutory directive that allows the Commission, in consultation with the applicant, to extend the completion deadline, but by only so much time as needed to complete the EIS.

D. Review of the Commission's Emergency Procedures for Environmental Review

In response to emergencies and natural disasters, the Commission has provided ad hoc assistance and relief to Commission licensees and applicants seeking to offer and restore wireless services. In the context of wireless communications infrastructure, this assistance has typically been offered in the form of public notices that extend filing and regulatory deadlines, expedite the review of Special Temporary Authority (STA) requests, remind ASR applicants of the exceptions to the environmental notification process, and advise ASR applicants to submit emergency waiver requests through the ASR system for emergency deployments not otherwise subject to an exception. In situations where the environmental notification process is required but applicants need to act before for that

process can be completed, the Commission permits the responsible Bureau to waive or postpone the requirement at the applicant's request, upon an appropriate showing.

However, the Commission's rules implementing NEPA do not include procedures governing compliance with section 4332(2)(C) of NEPA under emergency circumstances. In its February 2025 Guidance Memo, CEQ advised that all agency procedures implementing NEPA should include processes for consideration of emergency actions and encouraged agencies to use the 2020 CEQ Final Rules as the initial framework for developing revisions to their NEPA-implementing rules. The 2020 CEQ Final Rules stated that agencies should consult with CEQ about alternative arrangements to comply with section 102(2)(C) of NEPA when emergency circumstances necessitate taking an action with significant environmental impact without sufficient time to follow the agency's standard NEPA regulations, noting that the application of such arrangements should be limited to actions necessary to control the immediate impacts of the emergency. The 2020 CEQ Final Rules did not address emergency actions whose effects were not expected to be significant or were unknown.

In the past, CEQ has emphasized that agencies should not, in case of an emergency, delay immediate actions necessary to secure lives and safety of citizens or to protect valuable resources, but should consider whether there is sufficient time to follow agency NEPA-implementing procedures and regulations. It recommended that agencies first determine whether the action is statutorily exempt from NEPA, and, if not, whether a CE applies. For actions that meet the criteria for neither a statutory exemption nor an applicable CE, and which the agency does not expect to have a significant environmental impact, CEQ has advised that agencies should prepare a focused, concise, and timely EA. For actions that meet the criteria for neither a statutory exemption nor an available CE, but which the agency expects would have a significant impact, CEQ advises that agencies should next determine whether there is an existing NEPA analysis covering the activity and, if not, consult with CEQ about alternative arrangements. CEQ's past guidance has emphasized that alternative arrangements do not waive the requirement to comply with NEPA, but instead establish an alternative means for NEPA compliance.

Given this guidance, we seek comment on whether the Commission should adopt emergency NEPA procedures in its rules and, if so, what they should be. Would it be sufficient for the Commission to adopt a rule requiring consultation with CEQ about alternative arrangements for compliance with section 102(2)(C) of NEPA when emergency circumstances make it necessary to take action with reasonably foreseeable significant environmental effects, or should the Commission adopt in its rules additional procedures for applicants to follow in emergency situations? Commenters should explain why or why not, including in the context of the Commission's NEPA process pursuant to which applicants make the initial determinations about the potential environmental effects of their propose projects. Alternatively, should the Commission delegate to responsible Bureaus the authority to issue emergency guidance on an *ad hoc* basis, similar to guidance provided by Bureaus about NEPA and NHPA compliance in response to past emergencies? Should the Commission define criteria for when emergency circumstances apply, and what should they be? Should the Commission adopt in its rules unique criteria for EAs completed in emergency circumstances?

Commission licensees and applicants make an initial determination of whether a proposed MFA is categorically excluded under the Commission's rules by completing the Commission's NEPA Checklist, *i.e.,* by determining whether any of the extraordinary circumstances in § 1.1307 of its rules are present. Given that the determination of whether any of the Commission's extraordinary circumstances is present depends on other agencies or processes, is there a way the Commission can help reduce the time it takes applicants to complete the checklist under emergency circumstances? Would it be appropriate and in the public interest to eliminate or shorten any public comment period in the event of emergency circumstances? For an emergency action that would otherwise require an EIS, and for which the Commission has no existing applicable NEPA analysis such as a pre-existing plan to respond to a particular scenario, CEQ advises that agencies should consult with CEQ to determine whether alternative arrangements may take the place of an EIS. Should the Commission adopt the above criteria and delegate to the responsible Bureau to consult with CEQ when these circumstances apply to an emergency action in its rules?

E. Cost-Benefit Analysis

Benefits. The Commission's effort to modernize, optimize, and clarify its environmental rules and associated procedures promises to stimulate innovation, investment, and efficiency in the U.S. economy. We seek comment on whether, and to what extent, the various ways to streamline the Commission's environmental rules and procedures, discussed above, will speed the deployment of Commission-licensed services and infrastructure vital to the provision of broadband and other goods and services highly valued by American consumers and businesses. We also seek any quantifications of such expected benefits. Finally, we seek comment on any additional economic benefits that streamlining the Commission's environmental rules and procedures may unleash.

Costs. The risk of streamlining the Commission's environmental rules and procedures is a chance that projects posing harm to the environment may escape scrutiny, early detection, and mitigation. We seek comment on the nature and extent of this risk and any quantifications of that risk. We also seek comment on any other potential costs of streamlining the Commission's NEPA rules and procedures.

IV. Procedural Matters

Ex Parte Rules. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff

during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

In light of the Commission's trust relationship with Tribal Nations and our commitment to engage in government-to-government consultation with them, we find the public interest requires a limited modification of the *ex parte* rules in this proceeding. Tribal Nations, like other interested parties, should file comments, reply comments, and *ex parte* presentations in the record to put facts and arguments before the Commission in a manner such that they may be relied upon in the decision-making process consistent with the requirements of the Administrative Procedure Act. However, at the option of the Tribe, *ex parte* presentations made during consultations by elected and appointed leaders and duly appointed representatives of federally recognized Tribal Nations and Native Hawaiian Organizations to Commission decision makers shall be exempt from the rules requiring disclosure in permit-but-disclose proceedings and exempt from the prohibitions during the Sunshine Agenda period. To be clear, while the Commission recognizes consultation is critically important, we emphasize that the Commission will rely in its decision-making only on those presentations that are placed in the public record for this proceeding.

We note that some of the issues discussed above might uniquely affect Tribes. We direct the Office of Native Affairs and Policy (ONAP), in coordination with WTB and other Bureaus and Offices as appropriate, to conduct government-to-government consultation as appropriate with Tribal Nations. Tribal Nations may notify ONAP of their desire for consultation via email to *Native@fcc.gov.*

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning potential rule and policy changes contained in this Notice of Proposed Rulemaking. The IRFA is set forth in Appendix A. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the first page of this Notice of Proposed Rulemaking and must have a separate and distinct heading designating them as responses to the IRFA.

Paperwork Reduction Act. This document may contain proposed new or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on any information collections contained in this document, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document will be available on *https://www.fcc.gov/proposed-rulemakings.*

Filing of Comments and Reply Comments. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

V. Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the Notice of Proposed Rulemaking (*NPRM*). The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

In the *NPRM,* the Commission reviews its environmental review procedures to comport with the amended National Environmental Policy Act (NEPA), accelerate the federal permitting process, further a national priority of faster and more infrastructure deployment, and ensure that its rules are clear. The Commission seeks comment on the terms in the amended NEPA, including the definition of "major federal action" (MFA), the statute's jurisdictional trigger, and on the statute's enumerated exclusions from the definition of MFA.

The Commission seeks comment on whether it has substantial federal control and responsibility over the construction of certain communications towers, such as towers deployed pursuant to geographic area licenses, to determine whether those towers qualify as Commission MFAs under the amended NEPA. Additionally, the Commission seeks comment on whether certain other actions, including licensing of satellites, constitute "extraterritorial activities or decisions . . . with effects located entirely outside of the jurisdiction of the United States" to determine whether those activities are the Commission's MFAs under NEPA, as amended. The Commission also seeks comment regarding the need to retain or make changes to the Commission's environmental notice rules that stem from the requirement that certain towers must be registered in the Commission's Antenna Structure Registration (ASR) database.

Through its proposals, the Commission explores its responsibilities and procedures with respect to other laws, such as the Endangered Species Act and the National Historic Preservation Act (NHPA), for Commission actions that are determined not to be MFAs as defined by NEPA. In this situation, the *NPRM* seeks comment on what the Commission responsibilities are under the NHPA or other laws. The *NPRM* asks whether NHPA compliance or compliance with other environmental statutes continues to be required for categories of Commission actions that no longer constitute MFAs as defined by NEPA.

In addition, the *NPRM* explores actions that the Commission might take to streamline its environmental rules

and to otherwise implement the amended NEPA. More specifically, the Commission seeks comment on reorganizing the framework of our environmental rules to list specific MFAs that would be categorically excluded in place of the Commission's current approach of applying a broad CE. The Commission seeks comment on revising the environmental rules to create, instead of an overarching CE rule, a list of individual CEs specific to particular Commission MFAs, describing the MFAs and the conditions under which they are categorically excluded. If the Commission decides to create CEs specific to individual categories of Commission MFAs, the *NPRM* seeks comment on how to formulate them. If Commission opts to restructure its NEPA process to create a list of CEs (instead of an overarching CE), the *NPRM* seeks comment on what other resulting changes to the Commission's NEPA process and associated environmental rules would be necessary.

The *NPRM* also seeks comment on whether to amend the Commission's categorical exclusion (CE) regulation, including on whether it should update its list of extraordinary circumstances at 47 CFR 1.1307, and on whether any existing categories of extraordinary or provisions circumstances should be deleted.

The *NPRM* seeks comment on whether the Commission should retain its environmental notification process for applications that require antenna structure registration and, if so, whether the exceptions to this requirement should be amended. In addition, the *NPRM* asks whether the Commission should adopt procedures for adopting another agency's CEs, where appropriate, consistent with the amended NEPA statute. The *NPRM* also seeks comment on whether and how it should implement NEPA procedures for designating a lead agency in its rules, whether and how to amend its rules excepting proposed MFAs from environmental processing when the Commission is not the lead agency, and on how the Commission should document the designation of another agency as lead agency.

The *NPRM* seeks comment on updating the regulations to end the Federal Aviation Administration (FAA) notice requirement for applicants completing voluntary ASR registrations for towers that do not otherwise meet the height requirement to trigger the FAA notice requirement. The *NPRM* also seeks comment on adopting a uniform definition of "antenna structure property" throughout the regulations and on whether to update our rules to remove all references to the Council on Environmental Quality's regulations.

Further, the *NPRM* seeks comment on implementing NEPA's document requirements for environmental assessments (EAs) and environmental impact statements (EISs). The *NPRM* asks if the Commission should continue to solicit public comment on EAs prior to issuing a Finding of No Significant Impact (FONSI). The *NPRM* also seeks comment on how to implement the one-year deadline to complete an EA that the amended NEPA requires, and specifically how to determine, for the Commission's purposes, when the one-year period starts and ends.

With regard to EIS requirements under the amended NEPA, the *NPRM* asks how the Commission should incorporate the requirement that a public notice of intent to prepare an EIS should request comments on alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action. Similarly, the *NPRM* seeks comment on how the Commission should adopt the 150-page limit for an EIS except for complex issues, which the amended statute limits to 300 pages. Further, the *NPRM* seeks comment on how to adopt the two-year deadline for completing an EIS, the ability to extend the deadline for only so long as necessary to complete the EIS, and the requirement that the Commission report to Congress any missed deadlines.

Along these same lines, the *NPRM* asks about the February 19, 2025, CEQ Guidance Memo which states that agencies should prioritize project-sponsor prepared environmental documents, including EAs and EISs, for expeditious review. The Commission's rules already require applicants to prepare EAs, but not EISs. The *NPRM* asks if the Commission should require applicants to prepare EISs, if one is determined to be necessary. Finally, the *NPRM* seeks comment on whether the Commission should adopt emergency procedures. The *NPRM* observes that while NEPA does not speak to emergency procedures specifically the February 19, 2025, CEQ Guidance Memo states that all agency implementing procedures should include processes for consideration of emergency actions.

B. Legal Basis

The proposed action is authorized pursuant to sections 1, 2, 4(i), 201, 214, 301, 303, 309, and 332 of the Communications Act of 1934, as amended 47 U.S.C. 151, 152, 154(i), 201, 214, 301, 303, 309, and 332, section 102(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332(C), section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. 306108, and the Endangered Species Act of 1973, as amended, 16 U.S.C. 1536.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

Small Businesses, Small Organizations, Small Governmental Jurisdictions. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.

Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2022, there were approximately 530,109 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships,

villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2022 Census of Governments indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,845 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts) with enrollment populations of less than 50,000. Accordingly, based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 entities fall into the category of ''small governmental jurisdictions.''

Wireless Telecommunications Carriers (except Satellite). This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

The Commission's own data—available in its Universal Licensing System—indicates that, as of April 23, 2025, there were 192 Cellular licensees that will be affected by our actions today. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities.

Satellite Telecommunications. This industry comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $44 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than $25 million. Consequently, using the SBA's small business size standard most satellite telecommunications service providers can be considered small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, the Commission neither requests nor collects annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of satellite telecommunications providers that would be classified as a small business under the SBA size standard.

Fixed Microwave Services. Fixed microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. They also include the Upper Microwave Flexible Use Service (UMFUS), Millimeter Wave Service (70/80/90 GHz), Local Multipoint Distribution Service (LMDS), the Digital Electronic Message Service (DEMS), 24 GHz Service, Multiple Address Systems (MAS), and Multichannel Video Distribution and Data Service (MVDDS), where in some bands licensees can choose between common carrier and non-common carrier status. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with a SBA small business size standard applicable to these services. The SBA small size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of fixed microwave service licensees can be considered small.

The Commission's small business size standards with respect to fixed microwave services involve eligibility for bidding credits in the auction of spectrum licenses for the various frequency bands included in fixed microwave services. When bidding credits are adopted for the auction of licenses in fixed microwave services frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in part 101 of the Commission's rules for the specific fixed microwave services frequency bands.

In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

Location and Monitoring Service (LMS). LMS operates in the 902–928 MHz frequency band. The band is allocated for primary use by federal government radiolocation systems. Next in order of priority are uses for industrial, scientific, and medical devices. Federal government fixed and mobile and LMS systems are secondary to both uses. The remaining uses of the 902–928 MHz band include licensed amateur radio operations and unlicensed part 15 equipment, both of which are secondary to all other uses of the band. LMS systems use non-voice radio techniques to determine the location and status of mobile radio units and may transmit and receive voice and non-voice status and instructional information related to such units. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

According to Commission data as of November 2021, there were two licensees with approximately 354 active LMS licenses. The Commission's small business size standards with respect to LMS involve eligibility for bidding credits in the auction of spectrum licenses for these services. For the auction of LMS licenses, the Commission defined a ''small business'' as an entity that, together with controlling interests and affiliates with average annual gross revenues for the preceding three years not to exceed $15 million, and a ''very small business'' as an entity that, together with controlling interests and affiliates with average annual gross revenues for the preceding three years not to exceed $3 million. Pursuant to these definitions, four winning bidders that claimed small business credits won 289 licenses in Auction 21, and four winning bidders that claimed small business credits won 201 LMS licenses in Auction 43. Of these winning bidders, only one had active licenses in November 2021.

In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

Multichannel Video Distribution and Data Service (MVDDS). MVDDS is a fixed microwave service operating in the 12.2–12.7 GHz band that can be used to provide various wireless services. Mobile and aeronautical operations are prohibited. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

According to Commission data as of December 2021, there were 9 licensees with 250 active licenses in this service. The Commission's small business size standards with respect MVDDS involve eligibility for bidding credits in the auction of spectrum licenses for these services. For auctions of MVDDS licenses the Commission adopted criteria for three groups of small businesses. A very small business is an entity that, together with its affiliates and controlling interests, has average annual gross revenues not exceeding $3 million for the preceding three years, a small business is an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $15 million for the preceding three years, and an entrepreneur is an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years. In two auctions for MVDDs licenses, eight of the ten winning bidders who won 144 licenses claimed one of the small business status classifications, and two of the three winning bidders who won 21 of 22 licenses, claimed one of the small business status classifications. Five of the winning bidders claiming a small business status classification in these auctions had active licenses as of December 2021.

In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

Multiple Address Systems (MAS). MAS are point-to-multipoint or point-to-point radio communications systems used for either one-way or two-way transmissions that operates in the 928/952/956 MHz, the 928/959 MHz or the 932/941 MHz bands. Entities using MAS spectrum, in general, fall into two categories: (1) those using the spectrum for profit-based uses, and (2) those using the spectrum for private internal uses to accommodate internal communications needs. MAS serves an essential role in a range of industrial, safety, business, and land transportation activities and are used by companies of all sizes operating in virtually all U.S. business categories, and by all types of public safety entities. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

According to Commission data as December 2021, there were approximately 9,798 active MAS licenses. The Commission's small business size standards with respect to MAS involve eligibility for bidding credits in the auction of spectrum licenses for these services. For the auction of MAS licenses, the Commission defined ''small business'' as an entity that has average annual gross revenues of less than $15 million over the three previous calendar years, and a ''very small business'' is defined as an entity that, together with its affiliates, has average annual gross revenues of not more than $3 million over the preceding three calendar years. In auctions for MAS licenses, 7 winning bidders claimed status as small or very small businesses and won 611 of 5,104 licenses, and 5 of 26 winning bidders claimed status as small or very small businesses and won 1,891 of 4,226 licenses.

In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

Non-Licensee Owners of Towers and Other Infrastructure. Neither the Commission nor the SBA have developed a small business size

standard for Non-Licensee Owners of Towers and Other Infrastructure. All Other Telecommunications is the closest industry with a SBA small business size standard. The SBA size standard for this industry classifies firms with annual receipts of $35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms that operated in this industry for the entire year. Of this number, 1,039 firms had revenue of less than $25 million. Thus, under this SBA size standard a majority of the firms in this industry can be considered small.

At one time most communications towers were owned by the licensee using the tower to provide communications service. Many towers are now owned by third-party businesses that do not provide communications services themselves but lease space on their towers to other companies that provide communications services. The Commission's rules require that any entity, including a non-licensee, proposing to construct a tower over 200 feet in height or within the glide slope of an airport must register the tower with the Commission's Antenna Structure Registration (''ASR'') system and comply with applicable rules regarding review for impact on the environment and historic properties.

As of March 6, 2025, the ASR database includes approximately 139,219 registration records reflecting a ''Constructed'' status and 17,786 registration records reflecting a ''Granted, Not Constructed'' status. These figures include both towers registered to licensees and towers registered to non-licensee tower owners. The Commission does not keep information from which we can easily determine how many of these towers are registered to non-licensees or how many non-licensees have registered towers. Regarding towers that do not require ASR registration, we do not collect information as to the number of such towers in use and therefore cannot estimate the number of tower owners that would be subject to the rules on which we seek comment. Moreover, the SBA has not developed a size standard for small businesses in the category ''Tower Owners.'' Therefore, we are unable to determine the number of non-licensee tower owners that are small entities. We believe, however, that when all entities owning 10 or fewer towers and leasing space for collocation are included, non-licensee tower owners number in the thousands. In addition, there may be other non-licensee owners of other wireless infrastructure, including Distributed Antenna Systems (DAS) and small cells that might be affected by the measures on which we seek comment. We do not have any basis for estimating the number of such non-licensee owners that are small entities.

The closest applicable SBA category is All Other Telecommunications, and the appropriate size standard consists of all such firms with gross annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million and 15 firms had annual receipts of $25 million to $49, 999,999. Thus, under this SBA size standard a majority of the firms potentially affected by our action can be considered small.

Personal Radio Services. Personal radio services provide short-range, low-power radio for personal communications, radio signaling, and business communications not provided for in other services. Personal radio services include services operating in spectrum licensed under part 95 of our rules. These services include Citizen Band Radio Service, General Mobile Radio Service, Radio Control Radio Service, Family Radio Service, Wireless Medical Telemetry Service, Medical Implant Communications Service, Low Power Radio Service, and Multi-Use Radio Service. There are a variety of methods used to license the spectrum in these rule parts, from licensing by rule, to conditioning operation on successful completion of a required test, to site-based licensing, to geographic area licensing. All such services utilize are wireless frequencies, therefore we apply the industry definition of Wireless Telecommunications Carriers (except Satellite). The SBA small business size standard for this industry classifies firms employing 1,500 or fewer persons as small. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that the majority of firms in this industry can be considered small. We note however, that many of the licensees in this category are individuals and not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks direct information upon which to base an estimation of the number of small entities that may be affected by our actions in this proceeding.

Private Land Mobile Radio Licensees—900 MHz Band (*PLMR—900 MHz Band*). Private land mobile radio (PLMR*)* systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. Companies of all sizes operating in all U.S. business categories use these radios. The 900 MHz band (896–901/935–940 MHz) is designated for narrowband PLMR communications by Business/Industrial/Land Transportation (B/ILT) licensees and for Specialized Mobile Radio (SMR) providers, with deployed systems primarily used for two-way communication by land transportation, utility, manufacturing, and petrochemical companies. Only B/ILT and SMR licensees are eligible to operate in the 900 MHz band. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with a SBA small business size standard applicable to these services. The SBA small size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates licensees in this can be considered small.

Based on Commission data, as of December 14, 2021, there were 2,716 active licenses (714 B/ILT and 2,002 SMR licenses) in the 900 MHz band (896–901/935–940 MHz). The Commission's small business size standards with respect to PLMR licenses in the 900 MHz band involve eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of 900 MHz SMR licenses, the Commission defined a ''small business'' as an entity with average annual gross revenues of $15 million or less in the three preceding calendar years and a ''very small business'', as an entity with average gross revenues that are not more than $3 million for the preceding three years. Pursuant to these definitions, approximately 59 winning bidders claiming small business credits won approximately 263 licenses and 3 winning bidders claiming small business credits won approximately 7 licenses. None of the winning bidders claiming a small business status classification in these 900 MHz band PLMR license auctions had an active license as of December 2021.

In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the

number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard. Nevertheless, the Commission believes that a majority of B/ILT and SMT PLMR—900 MHz band licenses are held by small entities.

Public Safety Radio Licensees. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Because of the vast array of public safety licensees, the Commission has not developed a small business size standard specifically applicable to public safety licensees. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

With respect to local governments, in particular, since many governmental entities comprise the licensees for these services, we include under public safety services the number of government entities affected. According to Commission records as of December 2021, there were approximately 127,019 active licenses within these services. Included in this number were 3,577 active licenses in the Public Safety 4.9 GHz band. Since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are therefore not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

Broadband Radio Service and Educational Broadband Service. Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and ''wireless cable,'' transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)). Wireless cable operators that use spectrum in the BRS often supplemented with leased channels from the EBS, provide a competitive alternative to wired cable and other multichannel video programming distributors. Wireless cable programming to subscribers resembles cable television, but instead of coaxial cable, wireless cable uses microwave channels.

In light of the use of wireless frequencies by BRS and EBS services, the closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (*except* Satellite). The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

According to Commission data as of December 2021, there were approximately 5,869 active BRS and EBS licenses. The Commission's small business size standards with respect to BRS involves eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of BRS licenses, the Commission adopted criteria for three groups of small businesses. A very small business is an entity that, together with its affiliates and controlling interests, has average annual gross revenues exceed $3 million and did not exceed $15 million for the preceding three years, a small business is an entity that, together with its affiliates and controlling interests, has average gross revenues exceed $15 million and did not exceed $40 million for the preceding three years, and an entrepreneur is an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $3 million for the preceding three years. Of the ten winning bidders for BRS licenses, two bidders claiming the small business status won 4 licenses, one bidder claiming the very small business status won three licenses and two bidders claiming entrepreneur status won six licenses. One of the winning bidders claiming a small business status classification in the BRS license auction has an active licenses as of December 2021.

The Commission's small business size standards for EBS define a small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $55 million for the preceding five (5) years, and a very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than $20 million for the preceding five (5) years. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

Broadband Personal Communications Service. The broadband personal communications services (PCS) spectrum encompasses services in the 1850–1910 and 1930–1990 MHz bands. The closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (except Satellite). The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

Based on Commission data as of November 2021, there were approximately 5,060 active licenses in the Broadband PCS service. The Commission's small business size standards with respect to Broadband PCS involve eligibility for bidding credits and installment payments in the

auction of licenses for these services. In auctions for these licenses, the Commission defined ''small business'' as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding $40 million for the preceding three years, and a ''very small business'' as an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding $15 million for the preceding three years. Winning bidders claiming small business credits won Broadband PCS licenses in C, D, E, and F Blocks.

In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

1. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (*e.g.* dial-up ISPs) or Voice over internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Based on this data, the Commission estimates that the majority of ''All Other Telecommunications'' firms can be considered small.

D. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

The Commission anticipates that any rule changes that result from the *NPRM* will meet the Commission's objective of providing certainty for all applicants that are small entities. The *NPRM* seeks comment on ways that the Commission can streamline the environmental review process, prioritize efficiency and certainty and expedite the process for all applicants seeking environmental approval of pending construction projects. While these types of changes will reduce economic impact and regulatory burden for all applicants, we expect that small entity applicants, who typically lack the both the financial and staffing resources of their larger counterparts, will particularly benefit from any rules changes, if adopted.

Along these lines, the *NPRM* asks if the Commission has substantial federal control and responsibility over the construction of certain communications towers, such as towers deployed pursuant to geographic area licenses, to determine whether those towers qualify as Commission MFAs under the amended NEPA. If the Commission determines that it does not have substantial federal control and responsibility over these types of projects, then this finding would apply equally to small entities as well as all other applicants. Such a finding could mean that these types of construction projects would not need to undergo environmental processing before construction could begin, thereby creating a cost savings. Along these same lines, the *NPRM* asks what the Commission responsibilities are under the NHPA if the Commission determines that these types of projects are not considered to be MFAs as defined by NEPA. Depending on the Commission's decision, these types of changes would reduce economic impact and record keeping requirements for small entity applicants, as well as all applicants.

Further, the Commission seeks comment on other methods that might reduce economic burden and record keeping, including making changes to the Commission's environmental notice rules that stem from the requirement that certain towers must be registered in the Commission's Antenna Structure Registration (ASR) database. The Commission seeks comment on whether to amend its categorical exclusion (CE) regulation, including on whether to categorically exclude additional categories of Commission actions, and on whether to amend the list of extraordinary circumstances. The Commission also seeks comment on reorganizing the framework of its environmental rules to list specific MFAs that would be categorically excluded in place of the Commission's current approach of applying a broad CE. The *NPRM* also seeks comment on whether and how it should implement NEPA procedures for designating a lead agency in its rules, whether and how to amend its rules excepting proposed MFAs from environmental processing when the Commission is not the lead agency, and on how the Commission should document the designation of another agency as lead agency. If the Commission adopts these types of changes, these changes could further reduce economic and regulatory burden.

At this time, the Commission cannot quantify the potential cost savings of any rules changes discussed in the *NPRM,* should they be adopted. As part of our invitation for comment by interested parties, we request that any small entities participating in the comment process discuss any benefits or drawbacks associated with the proposed approaches, and provide information on their current costs of compliance with the Commission's existing rules. We expect the information we receive in comments to help the Commission identify and evaluate relevant matters for small entities, including compliance costs, and identify other burdens that may result from the matters raised in the *NPRM.*

E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or

simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

The *NPRM* seeks comment on ways the Commission could refine its environmental processing rules that will reduce economic impact and regulatory burden on small and other applicants. In this regard, the *NPRM* seeks comment on different approaches or alternatives that the Commission might take to complying with the revised NEPA requirements. For instance, the Commission is considering the application of its environmental processing rules in the geographic licensing context. In the *NPRM,* we consider whether the start and end dates for the one-year EA submission deadline should be modified in a way that would assist small entities. The Commission is also evaluating whether to broaden its CE regulation to include more Commission actions and if it should establish a process to adopt another agency's CEs. Further, the *NPRM* specifically asks if the Commission should change its rules for a project sponsor-prepared EA to help expedite environmental processing time and reduce costs and burdens for project sponsors, including those that are small entities.

The Commission will decide what actions it should take based on the record that it receives on the *NPRM.* Part of the decisional process will include evaluating the impact of these decisions on small entities and what alternatives it might adopt to lessen significant economic impact and regulatory burden on small entities while complying with the amendments to NEPA.

The Commission will fully consider the economic impact on small entities as it evaluates the comments filed in response to the *NPRM,* including comments related to costs and benefits. Alternative proposals and approaches from commenters will further develop the record and could help the Commission further minimize the economic impact on small entities. The Commission's evaluation of the comments filed in this proceeding will shape the final conclusions it reaches, the final alternatives it considers, and the actions it ultimately takes to minimize any significant economic impact that may occur on small entities from the final rules.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

VI. Ordering Clauses

Accordingly, *it is ordered* that, pursuant to sections 1, 2, 4(i) and (j), 201, 214, 301, 303, 309, 319, and 332 of the Communications Act of 1934, as amended 47 U.S.C. 151, 152, 154(i) and (j), 201, 214, 301, 303, 309, 319, and 332, section 102 of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332, section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. 306108, and the Endangered Species Act of 1973, as amended, 16 U.S.C. 1536, this Notice of Proposed Rulemaking *is adopted.*

It is further ordered that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on the Notice of Proposed Rulemaking on or before 30 days after publication in the **Federal Register,** and reply comments on or before 45 days after publication in the **Federal Register.**

It is further ordered that the Petition for Rulemaking filed by CTIA in the Commission's rulemaking proceeding RM–12003 is *granted* to the extent specified herein, that RM–12003 is incorporated into this proceeding WT Docket No. 25–217, and that RM–12003 is *terminated.*

It is further ordered that the Commission's Office of the Secretary *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

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