Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition for Rulemaking to Update Part 1, Subpart I of the Commission's Rules Implementing the National Environmental Policy Act	))))	File No. RM-________

To: The Commission

PETITION FOR RULEMAKING

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TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY. 2

II. RECENT STATUTORY CHANGES AND ACTIONS BY THE ADMINISTRATION AND THE COURTS HAVE SET THE STAGE FOR THE FCC TO REVISIT ITS APPROACH TO NEPA REVIEWS. 5

A. The Commission's Current Approach Applicable to Reviews of Wireless Deployments Is Based on an Outdated Legal Framework. 6

B. Statutory Changes to NEPA Adopted on a Bipartisan Basis in 2023 Require the Commission to Revisit Its Implementing Regulations. 10

C. Recent Actions by the Administration and the Courts Provide Further Impetus for the Commission to Revisit Its Environmental Rules. 11

III. THE COMMISSION SHOULD REVISE ITS REGULATIONS TO REFLECT THE CHANGED LEGAL LANDSCAPE AND BOLSTER WIRELESS BROADBAND DEPLOYMENT. 13

A. The Commission Should Find That Geographic Area Deployments Are Not MFAs, as the Agency Does Not Have "Substantial" Control and Responsibility Over Such Deployments. 13

B. The Commission Also Can Find That Geographic Area Deployments Are Non-Federal Actions Excluded from the Definition of an MFA. 16

C. The Commission Should Amend Section 1.1312 to Remove Retained Authority Over Geographic Area Deployments. 17

D. The Commission Should Make Clear that Mixed-Use Tower or Pole Deployments Are Likewise Not MFAs. 18

E. A Finding That Geographic Area Deployments Are Not MFAs Will Have Meaningful Public Interest and Practical Benefits. 20

F. The Commission Should Explore Additional Related Relief. 21

IV. THE COMMISSION SHOULD TAKE ADDITIONAL REASONABLE ACTIONS TO UPDATE ITS RULES CONSISTENT WITH THE STATUTORY AMENDMENTS TO NEPA, E.O. 14154, AND CEQ GUIDANCE. 22

A. The Commission Should Ensure That Consideration of Environmental Effects, When Applicable to Agency MFAs, Is Limited to Only Those Effects That Are "Reasonably Foreseeable." 23

B. The Commission Should Adopt a Reasonableness Standard in Its Rules That Applies Throughout the Environmental Review Process Applicable to EAs....... 24

C. The Commission Should Amend Its Rules to Incorporate Necessary Streamlining Measures, Bringing Clarity and Certainty to the NEPA Process.... 25

D. The Commission Should Consider Other Actions That Could Further Support the Agency's Permitting Priorities... 29

V. CONCLUSION.. 29

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CTIA[1] respectfully petitions the Federal Communications Commission ("FCC" or "Commission") pursuant to Section 1.401 of its rules[2] to promptly issue a notice of proposed rulemaking ("NPRM") to update Part 1, Subpart I of the Commission's rules implementing the National Environmental Policy Act ("NEPA").[3] Consistent with recent bipartisan amendments by Congress to NEPA and actions by the Administration and the courts, the Commission should act now to implement the statutory amendments and reduce unnecessary regulatory red tape for wireless facility deployments initiated by the private sector that lack substantial oversight by the Commission. As Chairman Carr recently stated, "[m]aintaining and extending U.S. leadership in

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[1] CTIA – The Wireless Association® ("CTIA") (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association's members include wireless providers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. CTIA represents a broad diversity of stakeholders, and the specific positions outlined in these comments may not reflect the views of all individual members. The association also coordinates the industry's voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry's leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

[2] 47 C.F.R. § 1.401.

[3] *See id*. §§ 1.1301-1.1320.

wireless" is a top priority, as it "translates directly into bringing Americans across the digital divide, creating jobs, and growing our economy."[4] By taking these steps, the Commission can ensure its implementing regulations better comply with federal environmental statutes, laws, and precedent by providing for efficient and effective environmental reviews where necessary while advancing the public interest and the Commission's statutory mission to facilitate ubiquitous deployment of broadband to all Americans.

I. INTRODUCTION AND SUMMARY.

The robustly competitive wireless industry drives billions of dollars to the United States economy annually and is powering innovation for consumers and enterprises across countless economic sectors. From supporting public safety and creating broadband competition to enhancing agricultural production, promoting manufacturing efficiencies, and enabling safer roadways, wireless is a uniquely impactful industry that is central to our everyday lives.

A key component to building and enhancing 5G and beyond is the physical infrastructure that serves as the backbone for America's wireless connectivity. With more than 432,000 operational cell sites as of 2023, the United States has seen a substantial increase in its wireless network architecture since the start of the 5G era. Indeed, nearly 20 percent of all cell sites in operation today were deployed since 2018 when 5G began, underscoring the importance of densifying and expanding wireless infrastructure to meet growing demand for new, innovative technologies and services.[5]

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[4] Letter from Brendan Carr, Chairman, FCC, to Ted Cruz, Chairman, Committee on Commerce, Science, and Transportation, United States Senate et al., at 1 (Mar. 12, 2025), https://x.com/BrendanCarrFCC/status/1900208337276289352/photo/1.

[5] *See* 2024 CTIA Annual Survey Highlights, CTIA (Sept. 10, 2024), https://www.ctia.org/news/2024-annual-survey-highlights.

The Commission previously took a number of critical steps to ensure these deployments can be more timely and cost effectively deployed while maintaining the appropriate role of states, local governments, Tribal Nations, and environmental stakeholders in the siting review process under the law. With Chairman Carr's longstanding leadership in removing unnecessary barriers to broadband deployment, the siting reforms adopted by the Commission between 2017 and 2020,[6] both for new and collocated wireless facilities, were instrumental in CTIA members' ability to deploy nationwide 5G faster than any other generation of wireless. Unfortunately, delays attributable to unnecessary environmental review processes continue to impact broadband buildout.

Recent bipartisan steps by Congress to update NEPA, as well as actions by the Administration and the courts, present the Commission with an opportunity to revisit and update its rules to ensure that deployments by private companies that are not within the substantial control and responsibility of the Commission are free from unnecessary, burdensome, and legally

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[6] *See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Report and Order, 32 FCC Rcd 9760 (2017) (eliminating historic preservation review for certain replacement utility poles); *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Second Report and Order, 33 FCC Rcd 3102 (2018) ("*NHPA/NEPA Order*") (revising the rules and procedures for deployments subject to NEPA and historic preservation review), *aff'd in part, vacated and remanded in part*, *United Keetoowah Band of Cherokee Indians in Okla. v. FCC*, 933 F.3d 728 (D.C. Cir. 2019) ("*Keetoowah*"); *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, 33 FCC Rcd 9088 (2018) (addressing regulatory barriers at the local level that are inconsistent with federal law), *aff'd in relevant part*, *City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Third Report and Order and Declaratory Ruling, 33 FCC Rcd 7705 (2018) (speeding the process and reducing costs of attaching new facilities to utility poles), *aff'd*, *City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020); *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, Declaratory Ruling and Notice of Proposed Rulemaking, 35 FCC Rcd 5977 (2020) (clarifying regulations applicable to upgrading the equipment on existing structures), *rev. granted in part, denied in part*, *League of Cal. Cities v.* FCC, 118 F.4th 995 (9th Cir. 2024); *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, Report and Order, 35 FCC Rcd 13188 (2020) (further streamlining the state and local review process for modifications to existing wireless infrastructure).

suspect regulations. In particular, Congress in 2023 enacted bipartisan amendments to NEPA which revised, for the first time in roughly 50 years, the ambiguous and complex environmental review procedures applicable to federal agencies and, by proxy, private entities that seek to deploy broadband and other infrastructure in the United States.[7] Consistent with those statutory amendments, the White House recently directed federal agencies to ensure their environmental review processes are grounded in the NEPA statute and other applicable law, and that those agency processes advance the country's economic and national security, most notably by eliminating permitting delays.[8] This directive and associated actions by the Council on Environmental Quality ("CEQ") specifically require agencies to consider Congress's bipartisan statutory amendments.[9]

Given these circumstances, the Commission should take commonsense steps now to implement these statutory and other changes, discussed further below, by updating and streamlining its regulations in Part 1, Subpart I, implementing NEPA to facilitate wireless broadband deployment across the country.[10] Specifically, the Commission should commence a rulemaking to:

- Provide that wireless facility deployments pursuant to a geographic area license that do not require antenna structure registration ("ASR") (hereinafter "geographic area deployments") are not major federal actions ("MFAs") under NEPA, and amend its rules accordingly; and

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[7] Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, § 321, 137 Stat. 10, 38-46 ("FRA") (codified at 42 U.S.C. §§ 4321-47).

[8] *See* Exec. Order No. 14154, 90 Fed. Reg. 8353, §§ 5-6(a) (Jan. 29, 2025) ("E.O. 14154").

[9] *See id*. *See also* Removal of National Environmental Policy Act Implementing Regulations, 90 Fed. Reg. 10610 (Feb. 25, 2025) ("CEQ Interim Final Rule"); CEQ, Memorandum for Heads of Federal Departments and Agencies, Implementation of NEPA (Feb. 19, 2025) ("Guidance Memorandum"), https://ceq.doe.gov/docs/ceq-regulations-and-guidance/CEQ-Memo-Implementation-of-NEPA-02.19.2025.pdf.

[10] *See* 47 C.F.R. §§ 1.1301-1.1320.

- 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.

By acting quickly to conform its rules and procedures to recent Congressional and Administration directives, the Commission also will ensure that its regulations facilitate, rather than hinder, wireless infrastructure expansion—advancing broadband deployment and ensuring continued leadership in wireless innovation.

II. RECENT STATUTORY CHANGES AND ACTIONS BY THE ADMINISTRATION AND THE COURTS HAVE SET THE STAGE FOR THE FCC TO REVISIT ITS APPROACH TO NEPA REVIEWS.

Many of the Commission's environmental rules date back decades,[11] and the last substantive revision to those rules occurred in 2018.[12] Since that time, Congress amended NEPA as part of the bipartisan Fiscal Responsibility Act of 2023 ("FRA") to outline specific details on how agencies must comply with the statute's environmental review mandate and provide a more efficient and predictable process for agency actions and projects.[13] Early this year, the White House issued E.O. 14154 instructing agencies to "undertake all available efforts to eliminate all delays within their respective permitting processes."[14] And just last month, CEQ, following recent court decisions[15] and E.O. 14154, took steps to rescind its NEPA rules and instructed

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[11] *See*, *e.g.*, *Amendment of Environmental Rules in Response to New Regulations Issued by the Council on Environmental Quality*, Report and Order, 60 Rad. Reg. 2d (P & F) 13 (1986); *Amendment of Environmental Rules*, First Report and Order, 5 FCC Rcd 2942 (1990) ("*1990 Order*").

[12] *See generally NHPA/NEPA Order*, 33 FCC Rcd 3102.

[13] *See* FRA § 321.

[14] E.O. 14154 § 5(d).

[15] *See Marin Audubon Society v. FAA*, 121 F.4th 902 (D.C. Cir. 2024) ("*Audubon*") (finding that CEQ lacks authority to issue binding rules as a general matter), *reh'g denied*; *Iowa v. CEQ*, No. 1:24-CV-00089, 2025 WL 598928 (D.N.D. Feb. 3, 2025) ("*Iowa*") (declaring invalid and vacating rules adopted by CEQ in 2024, agreeing with the decision in *Audubon* that CEQ lacks authority to issue binding rules).

agencies to revise their own NEPA rules for consistency with the FRA, E.O. 14154, and new CEQ guidance.[16]

Given these significant developments, the time has come for the Commission to update its environmental rules. Below, we discuss the Commission's current environmental review approach implementing NEPA for wireless facility deployments, as well as the recent statutory and other changes that warrant a change to that approach. In the sections that follow, we discuss specific changes the Commission should make to its environmental rules to implement the changed legal landscape.

A. The Commission's Current Approach Applicable to Reviews of Wireless Deployments Is Based on an Outdated Legal Framework.

NEPA mandates environmental reviews of agency MFAs and established CEQ within the Executive Office of the President to "review and appraise" agencies' compliance with NEPA.[17] CEQ adopted rules to guide federal agencies in their implementation of NEPA, and up until recently treated those rules as binding on federal agencies following the issuance of Executive Order 11991 in 1977.[18]

The Commission adopted its rules implementing NEPA, guided by the rules of, and in coordination with, CEQ.[19] The FCC's rules, like the environmental rules of federal agencies generally, should apply only to agency actions that rise to the level of an MFA. The FCC's determination of what actions constitute MFAs under NEPA (and, relatedly, what actions

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[16] *See* CEQ Interim Final Rule, 90 Fed. Reg. 10610; Guidance Memorandum.

[17] 42 U.S.C. §§ 4332(2)(C), 4344(3).

[18] Exec. Order No. 11991, 42 Fed. Reg. 26967 (May 24, 1977) ("E.O. 11991").

[19] *See* 47 C.F.R. Part 1, Subpart I, §§ 1.1301-1.1320.

constitute undertakings under the National Historic Preservation Act ("NHPA")) has evolved over time.[20]

In 1987, the Chief of the FCC's Common Carrier Bureau ("CCB") explained in a letter to Congress that where a licensee's existing license allowed it to add new sites without prior approval and subject only to after-the-fact notification, "it does not appear that there is a Commission 'undertaking.'"[21] But subsequently, in a series of decisions between 1995 and 2014, the FCC changed its view and determined that wireless deployments associated with geographic area licenses constitute MFAs/undertakings in two contexts.

First, in 1995, the FCC found that the construction of facilities that require ASR because they are more than 200 feet or are near airports is an MFAs/undertaking.[22] The FCC later explained that this pre-construction registration requirement "effectively constitute[es] an approval process within the Commission's section 303(q) authority."[23] The D.C. Circuit upheld

[20] Courts and the FCC have long treated the terms MFA and undertaking as largely equivalent or coextensive. *See Karst Envtl. Educ. & Prot., Inc. v. EPA*, 475 F.3d 1291, 1295-96 (D.C. Cir. 2007) ("*Karst*"); *Sac and Fox Nation of Mo. v. Norton*, 240 F.3d 1250, 1263 (10th Cir. 2001) ("*Sac and Fox Nation*"); *Sugarloaf Citizens Ass'n v. FERC*, 959 F.2d 508, 515 (4th Cir. 1992) ("*Sugarloaf*"); *Ringsred v. City of Duluth*, 828 F.2d 1305, 1309 (8th Cir. 1987); *NHPA/NEPA Order*, 33 FCC Rcd at 3114 ¶ 37; *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, 29 FCC Rcd 12865, 12886 ¶ 43 ("*2014 Order*").

[21] *See* Letter from Albert Halprin, Chief, CCB, FCC, to Louise Slaughter, U.S. House of Representatives, at 2 (Feb. 18, 1987); *see also* Letter from Albert Halprin, Chief, CCB, FCC, to Don L. Klima, Chief, Eastern Division of Project Review, Advisory Council on Historic Preservation, at 2 (Mar. 9, 1987).

[22] *See Streamlining the Commission's Antenna Structure Clearance Procedure*, Report and Order, 11 FCC Rcd 4272, 4289 ¶ 41 (1995) ("[R]egistering a structure constitutes a 'federal action' or 'federal undertaking,' such that the imposition of environmental responsibilities on the structure owner is justified."); *see also* 47 C.F.R. § 17.4 (specifying when ASR is required).

[23] *Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process*, Report and Order, 20 FCC Rcd 1073, 1084 ¶ 27 (2004) ("*2004 Order*"), *aff'd, CTIA-The Wireless Ass'n v. FCC*, 466 F.3d 105 (D.C. Cir. 2006) ("*CTIA*"). Section 303(q) of the Act authorizes the FCC to require painting and/or lighting of towers for purposes of air navigation safety. *See* 47 U.S.C. § 303(q).

this interpretation, finding that the FCC's approval under its registration regulations "constitute[s] 'Federal . . . approval.'"[24]

Second, in 2004, the FCC found that the construction of facilities subject to the FCC's "limited approval authority" under Section 1.1312 of the FCC's rules is an MFA/undertaking.[25] Section 1.1312 states that in the case of facilities for which no FCC authorization prior to construction is required by the Commission's rules, the licensee or applicant must initially determine whether the proposed facility may have a significant environmental impact and, if so, file an environmental assessment ("EA") with the FCC for review and approval prior to the construction.[26] At the time, the FCC explained that because Section 1.1312 requires compliance with environmental statutes—including filing an EA and receiving an FCC ruling as applicable—the FCC "expressly retained a limited approval authority for all tower construction to the extent necessary to ensure compliance with federal environmental statutes."[27] Two FCC Commissioners dissented from the 2004 finding, expressing the view that, in the absence of a construction permit or a site-by-site license, the FCC's retention of authority to require review exceeded its statutory authority.[28] While the D.C. Circuit held that the FCC acted within its

[24] *CTIA*, 466 F.3d at 114.

[25] *2004 Order*, 20 FCC Rcd at 1083 ¶ 26 & n.50.

[26] 47 C.F.R. § 1.1312(a)-(b); *see 1990 Order*, 5 FCC Rcd at 2942 ¶ 4.

[27] *2004 Order*, 20 FCC Rcd at 1083 ¶ 26 & n.50. In 2014, the FCC reiterated this finding, concluding that "macrocell deployments, including both new tower sites and collocations, are appropriately classified as Federal undertakings." *2014 Order*, 29 FCC Rcd at 12904-05 ¶ 84.

[28] *2004 Order*, 20 FCC Rcd at 1230 (statement of Commissioner K. Abernathy); *id*. at 1232 (statement of Commissioner K. Martin).

discretion in classifying this category of actions as an undertaking, it did not foreclose the Commission from revisiting it at a later time.[29]

Based on its 2004 ruling, the Commission currently relies on Section 1.1312 of its rules to treat wireless deployments associated with geographic area licenses as MFAs/undertakings. Geographic area licenses are used for most major wireless services and provide licensees with blanket authority to transmit on specific frequencies in a geographic area without needing to notify the FCC of each transmitter's operation or precise location.[30] Examples today include spectrum bands that were foundational to America's leadership in 4G and that are necessary for providing both capacity and coverage for 5G deployments across the country.[31]

Yet, all these developments occurred against the backdrop of a legal landscape that has since changed. As discussed below, Congress, on a bipartisan basis, and the Administration have recognized that NEPA has become too complicated and unwieldy for agencies—and private parties—to implement. Consequently, they have taken steps to limit the scope of the statute and to require federal agencies to reevaluate their own NEPA regulations to ensure they are consistent with the statute, Presidential directives, and case precedent. These directives, and the

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[29] *CTIA*, 466 F.3d at 114-18. In 2018, the FCC made a public interest finding that Section 1.1312 did not apply to the deployment of certain small wireless facilities, and therefore those deployments were neither MFAs nor undertakings. *NHPA/NEPA Order*, 33 FCC Rcd at 3114-15 ¶ 38. The D.C. Circuit subsequently vacated this public interest finding. The court did not, however, reach the question of whether the determination that the construction of such facilities was not an MFA/undertaking was lawful. *Keetoowah*, 933 F.3d at 740-45.

[30] *See Benkelman Tel. Co. v. FCC*, 220 F.3d 601, 603-04 (2000). By contrast, site-by-site licenses require a separate license for each transmitter site. *See id*.

[31] *See* FCC, Wireless Bureau, Mobility Division, https://www.fcc.gov/wireless/mobility-division-wtb (last visited Mar. 24, 2025); FCC, Economics and Analytics, Auctions Division, Auctions, Auction Maps, https://www.fcc.gov/economics-analytics/auctions-division/auctions/auction-maps (last visited Mar. 24, 2025); Roger C. Sherman, *Evolution in the Cellular Service*, FCC Blog (Oct. 2, 2014) ("FCC Blog"), https://www.fcc.gov/news-events/blog/2014/10/02/evolution-cellular-service.

downstream effects they have on compliance under NEPA, mandate a fresh look by the Commission at its own implementing regulations.

B. Statutory Changes to NEPA Adopted on a Bipartisan Basis in 2023 Require the Commission to Revisit Its Implementing Regulations.

In 2023, Congress passed the bipartisan FRA, resulting in the first substantive statutory changes to NEPA in decades. The legislation limited the scope of MFAs and established deadlines and other requirements to expedite the environmental review of such actions, addressing concerns that NEPA was too ambiguous and NEPA reviews had become too lengthy and costly.[32] These changes to NEPA warrant the Commission revisiting its implementing regulations to ensure they adhere to the revised statutory scope.

In particular, the FRA codifies a definition of an MFA for the first time in the NEPA statute, stating that an MFA is "an action *that the agency carrying out such action determines* is subject to *substantial* Federal control and responsibility."[33] The statutory MFA definition is consequential for several reasons. First, it provides a necessary clarification that there *mus*t be federal control and responsibility of the action and that federal control and responsibility must be "substantial," replacing the understanding from CEQ's 1978 regulations that more vaguely

[32] A hearing memorandum prepared in connection with an earlier version of the legislation explained why NEPA reform was needed: "[A]mbiguity in the statute allowed NEPA to evolve into an extremely cumbersome and lengthy process for federal agencies that has delayed and increased costs for numerous projects . . . . Many key terms were not defined in NEPA, leaving subsequent CEQ regulations and litigation to determine whether proposed actions are considered 'major,' 'federal,' or whether they will have a significant effect . . . . Adding to this complexity is the fact that NEPA is the 'most frequently litigated federal environmental statute,' adding to extreme project delays. This complex web of regulations has imposed significant time and cost burdens, with NEPA analysis adding an estimated average of $4.2 million to project costs.'" Hearing Memorandum from Subcomms. on Water, Wildlife and Fisheries and Federal Lands, to House Comm. on Natural Resources Republican Members, at 3 (Feb. 28, 2023), https://naturalresources.house.gov/uploadedfiles/hearing_memo_--_fc_leg_hrg_on_builder_02.28.23_final.pdf.

[33] 42 U.S.C. § 4336e(10)(A) (emphasis added).

referenced actions only "potentially subject to Federal control and responsibility."[34] Second, the FRA states that the term MFA does not include non-federal actions with "no or minimal Federal funding" or "no or minimal Federal involvement where a Federal agency cannot control the outcome of the project."[35] Third, it codifies in the NEPA statute that it is the *agency* that determines whether an action is an MFA[36]—which here means that the Commission has authority to determine which activities subject to its jurisdiction constitute MFAs.[37] With these changes, Congress established a textually narrower standard for what qualifies as an MFA triggering the applicability of NEPA in the first instance.

C. Recent Actions by the Administration and the Courts Provide Further Impetus for the Commission to Revisit Its Environmental Rules.

On January 20, 2025, President Trump signed E.O. 14154. Among other things, the executive order revoked E.O. 11991 issued in 1977, thereby removing CEQ's prior asserted basis for issuing and maintaining its NEPA regulations, and it instructed CEQ to propose to rescind CEQ's NEPA regulations and provide guidance to agencies on implementing NEPA.[38] In addition, the executive order instructed federal agencies to eliminate delays and "adhere to only

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[34] *See* 40 C.F.R. § 1508.18 (1978); *see also* National Environmental Policy Act—Regulations, 43 Fed. Reg. 55978, 56004 (Nov. 29, 1978). The statutory definition's requirement that there be actual (and not just potential) federal control and responsibility is consistent with the approach taken by CEQ in 2020. *See* 40 C.F.R. § 1508.1(q) (2020) (defining MFA to mean "an activity or decision subject to Federal control and responsibility").

[35] 42 U.S.C. § 4336e(10)(B)(i)(I)-(II).

[36] *Id*. § 4336e(10)(A). Previously, agency authority to determine whether an action is an MFA was prescribed by CEQ rule. *See*, *e.g.*, 40 C.F.R. § 1501.1(a)(4) (2020).

[37] Under the Supreme Court's *Loper Bright* decision, agencies may "exercise a degree of discretion" where a statute "expressly delegate[s] to an agency the authority to give meaning to a particular statutory term." *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 394 (2024) (internal quotation marks and citation omitted). This is exactly what the FRA amendments to NEPA do—they expressly and statutorily give agencies discretion to determine what is an MFA.

[38] *See* E.O. 14154 § 5(a)-(b).

the relevant legislated requirements for environmental considerations" in all federal permitting adjudications or regulatory processes.[39]

Consistent with E.O. 14154, CEQ published an Interim Final Rule in the Federal Register on February 25, 2025.[40] The Interim Final Rule will remove all CEQ regulations from the Code of Federal Regulations ("CFR") effective April 11, 2025.[41] Recognizing that the plain text of NEPA does not directly grant CEQ the power to issue regulations, CEQ determined that it may lack authority to issue binding rules on agencies in the absence of the now rescinded E.O. 11991.[42] CEQ's determination follows two recent federal court decisions finding that CEQ's rules are *ultra vires* because CEQ lacks lawful authority to promulgate binding regulations in the first instance.[43]

Contemporaneous with the release of the Interim Final Rule, CEQ issued a Guidance Memorandum to federal agencies.[44] Consistent with E.O. 14154, the Guidance Memorandum states that federal agencies "must revise their NEPA implementing procedures . . . to expedite permitting approvals and for consistency with NEPA as amended by the FRA."[45] As agencies revise their procedures, they are encouraged to use the rules CEQ adopted in 2020 as an "initial

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[39] *See id*. §§ 5(c), 6(a).

[40] CEQ Interim Final Rule, 90 Fed. Reg. 10610.

[41] *Id*. at 10611. Because the CEQ rules are being removed in their entirety, the Commission should delete and reserve Section 1.1302 of its rules, 47 C.F.R. § 1.1302, which includes only a cross-reference to the CEQ rules.

[42] CEQ Interim Final Rule, 90 Fed. Reg. at 10613.

[43] *See Audubon*, 121 F.4th 902; *Iowa*, 2025 WL 598928.

[44] *See* Guidance Memorandum.

[45] *Id*. at 4. Agencies are directed to complete the revision of their NEPA procedures within 12 months, *i.e.*, by February 19, 2026. *Id*. at 7. Until agencies adopt revised rules, they are instructed to continue to follow their existing rules consistent with the text of NEPA, E.O. 14154, and CEQ's Guidance Memorandum. *Id*. at 4.

framework," consistent with E.O. 14154 and the Guidance Memorandum.[46] Notably, agency procedures should "[i]dentify activities or decisions that are not subject to NEPA at a threshold stage such that no further [environmental] consideration is necessary."[47] As a result of these actions, agencies are no longer bound by the rules of the CEQ, which are being removed from the CFR.

III. THE COMMISSION SHOULD REVISE ITS REGULATIONS TO REFLECT THE CHANGED LEGAL LANDSCAPE AND BOLSTER WIRELESS BROADBAND DEPLOYMENT.

Given the statutory changes to NEPA, as well as the Executive actions and case precedent described herein, now is the time for the Commission to revisit its regulations to ensure its rules have a foundation in currently applicable law and can advance our economic and national security posture. In this Section III, we identify activities that the FCC should find are not MFAs subject to NEPA, such that no further environmental consideration pursuant to NEPA is necessary for these facilities. In Section IV, we discuss additional reasonable steps the Commission should take to update its rules, consistent with the FRA, E.O. 14154, and CEQ's Guidance Memorandum.

A. The Commission Should Find That Geographic Area Deployments Are Not MFAs, as the Agency Does Not Have "Substantial" Control and Responsibility Over Such Deployments.

As discussed above, the recent changes to NEPA make clear that environmental reviews are only intended to be required for MFAs, which are the subset of projects that a *federal agency determines* are subject to *substantial* control by that agency.[48] The Commission therefore has

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[46] *Id*. at 4; *see* Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43304 (July 16, 2020) ("2020 CEQ Rules").

[47] Guidance Memorandum at 6.

[48] 42 U.S.C. § 4336e(10)(A).

authority to issue an NPRM and find that, because it lacks substantial control and responsibility over geographic area deployments, they are not MFAs subject to NEPA review. Such a finding is the correct, commonsense application of the law.

As a threshold matter, the issuance of a geographic area license to operate using certain frequencies to provide wireless *service* in a given area does not constitute substantial federal control or responsibility over the construction of individual geographic area *deployments*.

Section 301 of the Communications Act (the "Act") generally requires a license to transmit radio energy, which authorizes its holder to "use" radio channels or to "operate" an apparatus to transmit radio signals.[49] And while Section 319(d) of the Act requires a construction permit as a precursor to the issuance of certain licenses, like broadcast, amendments enacted by Congress eliminated the construction permit requirement for common carrier stations and allowed the FCC to waive it for others.[50] In 1992, the FCC eliminated the prior construction authorization requirement for cellular providers, finding that it delayed needed construction of new facilities and was otherwise unnecessary.[51] When the FCC began licensing Personal Communications Services ("PCS") in 1993, it issued blanket geographic area licenses to provide PCS service in a defined geographic area and did not require PCS providers to obtain prior authorization to build towers or install antennas, specifying by rule that "[a]pplications for

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[49] *See* 47 U.S.C. § 301; *see also id*. § 309(h).

[50] *See* Pub. L. No. 97-259, § 119, 96 Stat. 1087, 1096 (1982).

[51] *Amendment of Part 22 of the Commission's Rules to provide for filing and processing of applications for unserved areas in the Cellular Service and to modify other cellular rules*, Second Report and Order, 7 FCC Rcd 2449, 2457 ¶¶ 14-15 (1992). While cellular service initially followed a site-based model, the FCC eventually transitioned the service to a geographic-based licensing regime to "bring [cellular service] into greater harmony with other mobile services, including PCS, 700 MHz and AWS." *See* FCC Blog; *Amendment of the Commission's Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 14100, 14107 ¶ 11 (2014).

individual sites are not required and will not be accepted."[52] This same process is in place today for other Commercial Mobile Radio Services subject to blanket licensing.[53] The FCC has therefore explained that "our wireless rules do not provide for the licensing of individual tower or antenna facilities."[54] Thus, the geographic area license itself authorizes only the use of spectrum to transmit radio signals.

The Commission's control over licensed *operations* is an insufficient connection to cause the *construction* of *individual facilities* to constitute an MFA under NEPA. As the D.C. Circuit has recognized, the Commission "generally does not require construction permits before private parties can build wireless facilities" but rather requires licensing of the spectrum by issuing geographic area licenses—and those licenses "authorize using spectrum rather than building wireless facilities."[55] Indeed, the Commission does not consider poles and other facilities built to support antennas operating on unlicensed spectrum to be MFAs[56]—underscoring that it is not the construction of individual facilities under a geographic area license over which the Commission has exercised substantial control and responsibility, but rather it is the issuance of the license to operate on certain frequencies.

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[52] 47 C.F.R. § 24.11(b).

[53] *See id*. § 27.11(a).

[54] *Procedures for Reviewing Requests for Relief From State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934*, Second Memorandum Opinion and Order and Notice of Proposed Rulemaking, 12 FCC Rcd 13494, 13559 ¶ 153 (1997).

[55] *Keetoowah*, 933 F.3d at 735-36. While the court also indicated that geographic area licenses "necessarily contemplate facility construction" because the failure to meet coverage requirements can result in enforcement action, *id*. at 736, the recent FRA amendments to NEPA make clear that MFAs do not include "bringing judicial or administrative civil or criminal enforcement actions." 42 U.S.C. § 4336e(10)(B)(v); *see also San Francisco Tomorrow v. Romney*, 472 F.2d 1021, 1025 (9th Cir. 1973) (agency's obligation to monitor compliance with statutory and regulatory requirements is insufficient to trigger NEPA); *Molokai Homesteaders Coop. Ass'n v. Morton*, 506 F.2d 572, 580 (9th Cir. 1974) (the right of an agency to issue notices of noncompliance is also insufficient action).

[56] *See NHPA/NEPA Order*, 33 FCC Rcd 3116 ¶ 43; *see also id*. at 3135 ¶ 84 n.170.

In addition, the issuance of geographic area licenses is remote in time and regulatory reach from deployment of individual wireless facilities, further demonstrating the lack of any substantial control and responsibility by the Commission over geographic area deployments. The physical deployment of wireless infrastructure can occur many years after a geographic area license is granted and in a manner and at locations that the Commission could not reasonably foresee when a geographic area license was issued.

B. The Commission Also Can Find That Geographic Area Deployments Are Non-Federal Actions Excluded from the Definition of an MFA.

NEPA, as amended by the FRA, further states that an action is excluded from the definition of an MFA if it is a non-federal action with no or minimal federal funding or with no or minimal federal involvement where a federal agency cannot control the outcome of the project.[57] Geographic area deployments also satisfy this provision, and therefore the Commission also can find that geographic area deployments are non-federal actions excluded from the definition of an MFA.

The issuance of a geographic area license does not involve the provision of federal funding for individual geographic area deployments, which are private, non-federal activities.[58] Nor does the geographic area license give the Commission control over the outcome of individual deployment decisions by a licensee. Although geographic area licenses are a legal prerequisite to the provision of licensed wireless *service*, and can affect entities' economic incentives to deploy wireless facilities—insofar as the facilities can be used to offer the licensed

[57] 42 U.S.C. § 4336e(10)(B)(i)(I)-(II).

[58] *See Goos v. I.C.C.*, 911 F.2d 1283, 1293 (8th Cir. 1990) ("NEPA . . . focuses on activities of the federal government and does not require federal review of 'the environmental consequences of private decisions or actions, or those of state or local governments.'"); *see also Save Our Wetlands, Inc. v. Sands*, 711 F.2d 634, 644 n.9 (5th Cir. 1983) ("A private act does not become a federal act, albeit a 'major' one, merely because of some incidental federal involvement.").

service—neither the geographic area license nor any other FCC approval is a legal prerequisite to the *deployment of those particular facilities* that are not subject to ASR. In fact, the Commission is often unaware of the location of geographic area deployments.[59] Thus, while the Commission generally issues wireless providers blanket licenses to operate on specific frequencies within a geographic area, the choice of when and where to build wireless facilities or deploy antennas is a private, non-federal activity, the outcome of which the FCC does not control. And, for the reasons discussed above, the FCC has no or minimal federal involvement in geographic area deployments.

C. The Commission Should Amend Section 1.1312 to Remove Retained Authority Over Geographic Area Deployments.

Once the Commission makes the threshold determination that geographic area deployments are not MFAs under NEPA, then the factual predicate for retaining limited NEPA approval oversight in Section 1.1312 of the FCC's rules over such facilities no longer exists. Thus, once it finds that geographic area deployments are not MFAs under NEPA, the FCC should amend Section 1.1312 to state that its limited retained approval authority under NEPA does not apply to such deployments.[60]

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[59] *See 2004 Order*, 20 FCC Rcd at 1232 (statement of Commissioner K. Martin) (recognizing that "where the FCC issues a blanket license and does not require a permit for construction of antennae," the federal government "is often not even aware of the location of the antenna"); FCC, National Wireless Facilities Siting Policies, Fact Sheet #2, at 28 (Sept. 17, 1996), https://wireless.fcc.gov/fact2.pdf ("PCS licensees are issued a blanket license by the Commission for their entire geographic area, and therefore they are not required to individually license each transmitter site within the market area. Because of this blanket licensing scheme, the Commission does not maintain any technical information on file concerning the majority of PCS licensees' base stations.").

[60] The FCC is free to revisit its prior decisions as long as it provides a reasoned explanation. *See Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 57 (1983); *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970). As detailed herein, there is ample basis, following the statutory changes and clarifications in the law, for the FCC to conclude that geographic area deployments are not MFAs and to amend Section 1.1312 to reflect that reasoned finding. Indeed, the FCC's approach has changed before: as noted above, in 1987 the CCB told Congress that sites that did

When the Commission determined some 35 years ago to retain limited approval authority in Section 1.1312 for facilities for which no pre-construction authorization is required, it did not explicitly address whether such construction was an MFA under NEPA. Instead, it explained that it retained limited approval authority "to ensure that the Commission fully complies with Federal environmental laws when considering communications facilities for which no pre-construction approval is required by the [] Act or the Commission's rules."[61] By reasonably exercising its discretion under the law to find that geographic area deployments are not MFAs,[62] the FCC *is* ensuring compliance with NEPA. Having assured such compliance, the retention of limited approval authority over such facilities is no longer necessary or appropriate, and the Commission should therefore amend Section 1.1312 to remove this retained authority.[63]

D. The Commission Should Make Clear that Mixed-Use Tower or Pole Deployments Are Likewise Not MFAs.

The Commission also should propose and ultimately find that mixed-use tower or pole deployments that primarily enable the use of spectrum licensed on a geographic area basis, but also will support the use of spectrum under a site-based license as part of the initial deployment, are likewise not MFAs. The Commission does not have "substantial" control and responsibility

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not require prior approval did *not* appear to be undertakings, but the FCC's *2004 Order* and *2014 Order* concluded otherwise.

[61] *1990 Order*, 5 FCC Rcd at 2944 ¶ 18.

[62] *Supra* note 37.

[63] This petition does not propose changes to the Commission's oversight with respect to its radio frequency ("RF") rules or the continued applicability of those rules to geographic area deployments. Thus, if the proposed relief is granted, transmissions from facilities that operate pursuant to geographic area licenses will remain subject to FCC rules governing RF emissions exposure. It is well established that the Commission retains ample authority beyond NEPA to adopt and enforce RF exposure limits. *See, e.g.*, Telecommunications Act of 1996, Pub. L. No. 104-104, § 704(b), 110 Stat. 56, 152; 47 U.S.C. § 332(c)(7)(B)(iv); 47 U.S.C. § 151; *see also Farina v. Nokia, Inc.*, 625 F.3d 97, 125-30 (3d Cir. 2010); *NHPA/NEPA Order*, 33 FCC Rcd at 3117 ¶ 45 n.58. The Commission should consider amending Section 1.1301, which sets forth the basis and Purpose of Part 1, Subpart I, to reflect this additional authority for Sections 1.1307(b) and 1.1310 applicable to RF emissions.

over such mixed-use deployments where the site-based element is only a smaller component of the broader geographic area deployment, and therefore it should not retain its NEPA authority over such facilities. The same policy should apply to modifications to increase, strengthen, or harden the underlying tower or pole, and at the same time alter any geographic area or site-based antennas on the structure, as long as the modifications do not require ASR.

Moreover, as discussed above, the FRA amendments make clear that an MFA does not include a non-federal action with "no or minimal Federal funding" or "no or minimal Federal involvement where a Federal agency cannot control the outcome of the project."[64] In the case of a mixed-use deployments or modifications as described, the primary purpose of the deployment or modification remains to support the provision of service under geographic area licenses to provide wireless services to customers in the areas. Any additive or modified site-based facilities on that tower or pole, such as microwave antennas used to provide backhaul, are ancillary to that primary use. Under these circumstances, the FCC's involvement in the overall project is "minimal," because it does not have responsibility or control over the support structure itself or the antennas the tower or pole will support to provide the primary geographic area service, and its only limited role is to review the discrete microwave site-based component. Moreover, construction or modification of the underlying tower or pole is not dependent on—and can proceed without—FCC approval of the microwave license.[65]

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[64] 42 U.S.C. § 4336e(10)(B)(i).

[65] For example, a licensee may choose to use fiber instead of microwave to connect a tower site to its core network.

E. A Finding That Geographic Area Deployments Are Not MFAs Will Have Meaningful Public Interest and Practical Benefits.

Issuing an NPRM and acting consistent with this petition would advance the public interest because it would help to streamline the Commission's regulations and allow the Commission and other stakeholders to focus on projects that are appropriately within the scope of NEPA. This is consistent with the Chairman's longstanding efforts to reform permitting processes to make them more efficient. It also aligns with the Administration's directives to agencies to ensure federal environmental regulations are aligned with applicable law and its government efficiency initiatives, which Chairman Carr recently opened a proceeding to advance.[66]

Additionally, taking these steps will help to reduce unnecessary impediments to the deployment of wireless networks and better position the wireless industry to focus its resources on expanding and enhancing their networks to serve customers, consistent with the goals of the Act and Commission priorities. Although exclusions from NEPA exist for certain deployments, the processes continue to apply unnecessarily to geographic area deployments as a general matter, requiring time and expense in assessing compliance and determining whether an exclusion might apply. According to CTIA members, these impediments can include lengthy deployments delays, increased costs (which can pull limited capital resources away from other needed deployments and network enhancements), and, in some cases, decisions not to deploy at a given location. For example:

- *Companies face long timeframes for NEPA reviews*. Delays often result from the need to consult with multiple federal agencies, such as the U.S. Fish and Wildlife Service, in addition to state environmental agencies, as well as the need to delineate

[66] *In Re: Delete, Delete, Delete*, Public Notice, DA 25-219 (rel. Mar. 12, 2025); News Release, FCC, *FCC Chairman Carr Launches Massive Deregulation Initiative* (Mar. 12, 2025), https://docs.fcc.gov/public/attachments/DOC-410147A1.pdf.

wetlands or other environmentally sensitive areas that may be affected. While many collocations and site modifications are eligible for exclusions, reviews that are required can take months, particularly when site access is restricted or fieldwork is seasonal, as often occurs. According to members, EAs can sometimes take three to six months or in some instances even several years to complete and resolve.

- *NEPA reviews add substantial costs to broadband deployments*. Members report that NEPA evaluations and related compliance can cost millions of dollars annually. For example, NEPA permitting and mitigation for a single proposed deployment in one southern state cost $37,200. Members reports that the process of hiring an external consultant just to determine whether an EA is required can cost thousands of dollars, and where EAs are required to be prepared, members report that they can cost upwards of $60,000 per deployment.

- *Lengthy and costly NEPA reviews can harm deployment of new and upgraded service and can force project abandonment*. One member reports that a business decision was made to abandon a project only after spending three years and tens of thousands of dollars in attempts to obtain approval for the originally proposed project. It is also not unusual for industry to allocate resources to sites that may have a quicker path to construction. These decisions have a direct impact on coverage and capacity for wireless networks writ large, and especially in rural and remote areas, impacting services for businesses and consumers.

F. The Commission Should Explore Additional Related Relief.

The Commission additionally should propose to find that geographic area deployments are not undertakings under the NHPA, and amend Section 1.1312 accordingly. As is the case with MFAs under NEPA, the Commission "has sole authority to determine what activities undertaken by the Commission or its Applicants constitute Undertakings within the meaning of the NHPA."[67] As noted, courts have long treated the terms MFA for NEPA purposes and undertaking for NHPA purposes as "essentially coterminous."[68] And consistent with the NEPA

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[67] Nationwide Programmatic Agreement, 47 C.F.R. Part 1, App'x C, § I.B; 36 C.F.R. § 800.3(a); *see also* Protection of Historic Properties, 65 Fed. Reg. 77698, 77712 (Dec. 12, 2000) ("The Agency Official is responsible, in accordance with § 800.3(a), for making the determination as to whether a proposed Federal action is an undertaking.").

[68] *Ringsred*, 828 F.2d at 1309; *see Karst*, 475 F.3d at 1295-96; *Sac and Fox Nation*, 240 F.3d at 1263; *Sugarloaf*, 959 F.2d at 515.

MFA standard, courts have indicated that an agency's involvement in a project must be "substantial" to render the project an undertaking subject to NHPA.[69]

Thus, for the same basic reasons geographic area deployments are not MFAs under NEPA, the Commission should propose to find that they are not undertakings under NHPA. That is, geographic area licensing does not provide for FCC involvement in wireless facility deployment decisions, and the geographic area license does not result in wireless facility deployment being "carried out by or on behalf of the Federal agency."[70] Geographic area licenses also do not provide "Federal financial assistance" for wireless facility deployment.[71] Nor is the geographic area license "a Federal permit, license or approval" that must be obtained before wireless facility deployment can proceed.[72]

IV. THE COMMISSION SHOULD TAKE ADDITIONAL REASONABLE ACTIONS TO UPDATE ITS RULES CONSISTENT WITH THE STATUTORY AMENDMENTS TO NEPA, E.O. 14154, AND CEQ GUIDANCE.

E.O. 14154 also instructs federal agencies, including the Commission, to eliminate delays and "adhere to only the relevant legislated requirements for environmental considerations" in all federal permitting adjudications or regulatory processes.[73] In light of the FRA's amendments to NEPA, the President's instruction to agencies to adhere to legislated requirements provides an additional opportunity for the Commission to take a fresh look at its NEPA regulations to ensure its rules conform to the FRA. The Commission should propose the following amendments to its

[69] *See Sugarloaf*, 959 F.2d at 515; *Techworld Dev. Corp. v. D.C. Preservation League*, 648 F.Supp. 106, 120 (D.D.C.1986), *vacated on other grounds as moot*, 1987 WL 1367570 (D.C. Cir. June 2, 1987).

[70] 54 U.S.C. § 300320.

[71] *Id*.

[72] *Id*.

[73] *See* E.O. 14154 § 6(a).

rules to ensure that any facilities that remain subject to NEPA reviews are subject to a streamlined environmental process with clear timelines and predictable standards.

A. The Commission Should Ensure That Consideration of Environmental Effects, When Applicable to Agency MFAs, Is Limited to Only Those Effects That Are "Reasonably Foreseeable."

The FRA codifies language from the 2020 CEQ Rules limiting the consideration of environmental effects to "reasonably foreseeable environmental effects of the proposed agency action" and "any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented."[74] The Commission should amend Section 1.1308 of its rules applicable to the consideration of EAs to codify this "reasonably foreseeable" limitation.[75] The Commission also should amend the rule to make clear that, when considering any reasonably foreseeable effects, the Commission also should consider and weigh the purpose and need for the action as well as the FCC's statutory mission, e.g., to make available a nationwide radio service, consistent with the 2020 CEQ Rules.[76]

Furthermore, the amendments to Section 1.1308 should specify that any environmental effects analysis, when needed as part of an EA, does not require an analysis of "cumulative" effects. The term "cumulative effects" is a vestige of the now-eliminated the 2024 CEQ Rules[77] and has no basis in the NEPA statute. As CEQ explained when adopting the 2020 CEQ Rules, references to cumulative effects should be stricken because agencies only should "focus on those

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[74] *Compare* 2020 CEQ Rules, 85 Fed. Reg. at 43331, 43343 *with* 42 U.S.C. §§ 4332(2)(C)(2)(i)-(ii), 4336(b).

[75] *See* 47 C.F.R. § 1.1308.

[76] *See* 2020 CEQ Rules, 85 Fed. Reg. at 43317, 43351; 40 C.F.R. §§ 1500.6, 1501.5(c)(2) (2020).

[77] As discussed, the CEQ rules will be removed from the CFR in their entirety effective April 11, 2025. The 2024 CEQ Rules, however, were declared invalid and vacated by the court in *Iowa*, 2025 WL 598928.

effects that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action."[78] The fact that Congress in the 2023 FRA amendments retained the 2020 CEQ Rules' focus on reasonably foreseeable environmental impacts—knowing that CEQ specifically eliminated consideration of cumulative effects—indicates Congress intended to codify the 2020 approach. Thus, consistent with the FRA, as reinforced by CEQ's Guidance Memorandum, the Commission should make clear that any environmental effects analysis, when required, requires an analysis only of "reasonably foreseeable" effects on the environment as opposed to "cumulative" effects.[79]

B. The Commission Should Adopt a Reasonableness Standard in Its Rules That Applies Throughout the Environmental Review Process Applicable to EAs.

In addition to limiting the consideration of environmental effects to those that are "reasonably foreseeable,"[80] the FRA also amended NEPA to make clear that agencies need only consider "a reasonable range of alternatives" when making environmental determinations.[81] This "reasonable" range of alternatives includes only those that are "technically and economically feasible, and meet the purpose and need of the proposal."[82] In addition, agencies are not required to conduct new scientific or technical research unless it would be essential to making a "reasoned choice" among alternatives and the costs and time for that research is not "unreasonable."[83] Consistent with these amendments and guidance, the Commission should

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[78] 2020 CEQ Rules, 85 Fed. Reg. at 43331.

[79] *See* Guidance Memorandum at 5 ("Federal agencies should analyze the reasonably foreseeable effects of the proposed action consistent with section 102 of NEPA, which does not employ the term 'cumulative effects;' NEPA instead requires consideration of "reasonably foreseeable" effects . . . .").

[80] *See* 42 U.S.C. § 4332(2)(C)(i)-(ii).

[81] *See id*. § 4332(2)(C)(iii).

[82] *Id*.

[83] *See id*. § 4336(b)(3).

amend Sections 1.1308 and/or 1.1311 applicable to the consideration of EAs and information to be included therein to clarify that a reasonableness standard applies throughout the environmental review process where applicable to agency MFAs.

C. The Commission Should Amend Its Rules to Incorporate Necessary Streamlining Measures, Bringing Clarity and Certainty to the NEPA Process.

The Commission should take additional streamlining measures by amending its rules to bring clarity, certainly, and finality to the NEPA process when (1) the ASR environmental notice process is triggered and requests for environmental review are filed or (2) EAs are required for actions that are MFAs. These additional measures are consistent with the FRA, E.O. 14154, and CEQ's Guidance Memorandum, all of which seek to expedite action and eliminate delays with respect to the NEPA process.[84]

ASR environmental notification process. The FCC's ASR environmental notification process includes an opportunity to submit requests for environmental review,[85] but there is no timeline for agency action on an ASR application where requests for environmental review are filed, and such requests can take months to resolve—leaving all interested parties with insufficient information regarding the timeline for action. The Commission can bring certainty to the process by amending Section 17.4(c)(5)(i) of its rules to specify that the Commission or Bureau will resolve a contested ASR application within 90 days after the pleading cycle has been completed, unless a new deadline is established in consultation with the applicant. This period is consistent with the timeline the FCC currently applies to resolution of contested EAs.[86]

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[84] *See id*. § 4336a; E.O. 14154, § 5(c)-(d); Guidance Memorandum at 1-5.

[85] *See* 47 C.F.R. § 17.4(c)(5).

[86] *See NHPA/NEPA Order*, 33 FCC Rcd at 3166 ¶ 153.

The Commission also should amend Section 17.4(c)(5)(ii) of its rules to make explicit that requests for environmental review submitted with respect to an ASR application will be dismissed if they make only speculative, general allegations and fail to state specific reasons supported by factual detail demonstrating that a proposed facility will have a significant impact. This is consistent with current Commission guidance.[87] Further, Commission staff should promptly dismiss such defective requests.

Lastly, we encourage the Commission to consider modernizing how ASR environmental notice is provided in the first instance. The current process is unnecessarily burdensome, including generally requiring local notice through publication in a newspaper of general circulation as well as national notice posted on the FCC's website.[88]

Environmental assessments. The FCC should explore additional ways to streamline the agency's EA public notice and review process, which is currently lengthy and delays needed deployments. Cognizant of such agency delays, the FRA sets an outside limit of one year after an EA is determined to be complete for an agency to finish that EA, absent an extension "in consultation with the applicant," and provides that an applicant may petition a court if the agency does not meet the deadline.[89] The FRA requirements follow action the FCC took in 2018 to set

[87] *See* FCC, Wireless Licensing Help Center, Antenna Structure Registration (ASR) Resources, Filing a Request for Environmental Review in the Antenna Structure Registration (ASR) System, https://www.fcc.gov/wireless/support/antenna-structure-registration-asr-resources/filing-request-environmental-review (last visited Mar. 24, 2025) (stating that a request for environmental review must "state the specific reasons" a proposal may have a significant impact and be "supported by factual detail," and cautioning that "[p]leadings that do not meet these standards may be subject to dismissal"); *see also*, *e.g.*, *T-Mobile and the Pierce Archery Proposed Antenna Tower*, Memorandum Opinion and Order, 18 FCC Rcd 24993, 24997 ¶¶ 13-14 (WTB/SCPD 2003) (concluding that requests for environmental review that "make only speculative, general allegations" without any specific showing as to how the challenged tower would cause harm "fail[] to present sufficient facts and/or arguments to support [any] claims that the subject tower will have a significant impact on the environment").

[88] *See* 47 C.F.R. § 17.4(c)(2)-(4).

[89] 42 U.S.C. § 4336a(g).

forth timelines to process EAs and address any challenges that may be filed, but those timelines were not codified by rule.[90] Drawing upon these developments, the FCC should amend Section 1.1308 of its rules to apply the following timeframes to the review and processing of EAs:

- The Commission or Bureau will review an EA for completion and adequacy to support a Finding of No Significant Impact ("FONSI") within 20 days from the date it is promptly placed on notice. If the EA is complete and no informal complaint or petition to deny is filed, the Commission or Bureau shall complete its review and issue a FONSI, if warranted, within 60 days from placement on notice.

- If the EA is incomplete, the Commission or Bureau will notify the applicant of the additional information needed within 30 days after the EA is placed on notice.

- Where the missing information is not likely to affect the public's ability to comment on significant environmental impacts, the application will not again be placed on notice. In such cases, if no informal compliant of petition to deny is filed, the Commission or Bureau will complete its review and issue a FONSI, if warranted, within 30 days after the missing information is provided or 60 days after the initial notice, whichever is later.

- Where the missing information may affect the public's ability to comment on significant environmental impacts, the application will again be placed on notice when that information is received. In such cases, a new 60-day period for review and processing will begin upon publication of the additional notice.

- Where an informal complaint or petition to deny is filed against an application containing an EA, the Commission's rules afford the applicant an opportunity to respond and the petitioner or objector an opportunity to reply.[91] In such cases, the Commission or Bureau will resolve the contested proceeding within 90 days after the pleading cycle has been completed, unless a new deadline is established in consultation with the applicant.

- In 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.

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[90] *See NHPA/NEPA Order*, 33 FCC Rcd at 3165-66 ¶¶ 150-153.

[91] *See* 47 C.F.R. §§ 1.45, 17.4(c).

Consistent with the FRA,[92] the Commission also should amend Section 1.1311 of its rules applicable to the content of EAs to specify that an EA may not exceed 75 pages, not including any citations or appendices.[93] Relatedly, the Commission should make clear in that rule that an EA, when required, need only include a discussion of the effects that the facility may have *with respect to the specific category or categories that triggered the EA in the first instance*. Current Commission guidance instructs an applicant to address "all of the categories identified in Section 1.1307(a) and (b)" when an EA is needed, even if only one of those categories is triggered and the rest are categorically excluded.[94] For example, if an EA is filed only because of a potential adverse impact on a historic property, an EA filed today must still address potential impacts to floodplains, wetlands, endangered species, etc., even if an EA is not needed for any of those other categories. This expansive scope means that an EA is longer than necessary (inconsistent with the FRA goal of limiting the length of an EA), takes more time to prepare and review (inconsistent with the FRA goal of expediting permitting), and adds unnecessary cost for no benefit.

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[92] *See* 42 U.S.C. § 4336a(e)(2).

[93] The FRA also adopts time limits and page lengths for environmental impact statements ("EISs"). *See id*. § 4336a(e)(1), (g)(1)(A). Although CTIA is not aware of any instances where wireless deployments subject to FCC jurisdiction have triggered the need for an EIS, the Commission should likewise update its EIS rules, *see* 47 C.F.R. §§ 1.1314(h), 1.1315(a), to conform to the FRA time and page limits for the sake of accuracy.

[94] *See* FCC, Wireless Licensing Help Center, Antena Structure Registration (ASR) Resources, Filing an Environmental Assessment in the Antenna Structure Registration (ASR) System, What to Include in an Environmental Assessment (EA), https://www.fcc.gov/wireless/support/antenna-structure-registration-asr-resources/filing-environmental-assessment (last visited Mar. 24, 2025); *see also* FCC, NEPA and EA Checklists (June 24, 2022), https://us-fcc.app.box.com/s/f2rbaxbka6ni4e30jwun4nms6lbk18kf.

D. The Commission Should Consider Other Actions That Could Further Support the Agency's Permitting Priorities.

In addition to the proposals herein, the Commission should seek public comment on other proposals that might further enhance, clarify, or streamline the environmental and historic preservation review processes for actions that will remain subject to NEPA and NHPA. Such proposals should be consistent with the Commission's longstanding priority of facilitating broadband deployment and ensure the agency's environmental regulations writ large facilitate the protection of environmental and historically and culturally significant properties without undermining progress toward expanding and enhancing broadband infrastructure across the country.

V. CONCLUSION.

For the foregoing reasons, the Commission should adopt an NPRM proposing to (1) find that geographic area deployments are not MFAs under NEPA, and amend its rules accordingly; and (2) implement other reasonable reforms to its NEPA procedures consistent with statutory mandates, recent Presidential directives, and actions by CEQ. By acting quickly to commence a rulemaking, the Commission will take another important step to reduce impediments to the deployment of wireless broadband networks, pave the way for enhanced United States leadership in advanced wireless broadband services, and help ensure that wireless providers' limited capital resources are used efficiently to close the digital divide.

Respectfully submitted,

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